

THURSDAY, MAY 29, 2003

FORTY-SEVENTH LEGISLATIVE DAY

CALL TO ORDER

The Senate met at 9:00 a.m., and was called to order by Mr. Speaker Wilder.

PRAYER

The proceedings were opened with prayer by Dr. Ken Clayton of Tulip Grove Baptist Church in Old Hickory, Tennessee, a guest of Senator Haynes.

PLEDGE OF ALLEGIANCE

Senator Haynes led the Senate in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 33

Senators present were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

HOUSE BILLS ON FIRST CONSIDERATION

The Speaker announced that the following House Bills were transmitted to the Senate and passed first consideration:

House Bill No. 1526 -- Administrative Procedure (UAPA) -- Extends agency rules scheduled to expire pursuant to provisions of UAPA.

House Bill No. 2129 -- Centertown -- Subject to local approval, changes election date and renames governing body to be Board of Mayor and Aldermen. Amends Chapter 606 of the Private Acts of 1951.

SENATE BILL ON SECOND CONSIDERATION

The Speaker announced that the following bill passed second consideration and was referred to the appropriate committee:

Senate Bill No. 2050 held on desk.

INTRODUCTION OF RESOLUTIONS

The Speaker announced the following resolutions were filed for introduction. Pursuant to Rule 21, the resolutions lie over.

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Senate Joint Resolution No. 616 by Senator Miller.
Memorials, Death -- Cleaston Runion.

Senate Joint Resolution No. 617 by Senator McNally.
Memorials, Professional Achievement -- Ronnie Greer, U.S. District Court nominee.

Senate Joint Resolution No. 618 by Senator Burks.
Memorials, Interns -- Kevin Manning.

Senate Joint Resolution No. 619 by Senator Burks.
Memorials, Professional Achievement -- Pam Ash.

Senate Joint Resolution No. 620 by Senators McNally and Southerland.
Memorials, Professional Achievement -- Ronnie Greer, U.S. District Court nominee.

Senate Joint Resolution No. 621 by Senator McLeary.
Memorials, Death -- John Smythe.

Senate Joint Resolution No. 622 by Senators Burks, Crutchfield and Herron.
General Assembly, Adjournment -- Adjourns 2003 session of 103rd General Assembly on Thursday, May 29, 2003.

Senate Joint Resolution No. 623 by Senator Burks.
Memorials, Recognition -- Jonathan P. Goodwin.

Senate Joint Resolution No. 624 by Senator Clabough.
Memorials, Academic Achievement -- Melissa Whaley, Valedictorian, Sevier County High School.

Senate Resolution No. 108 by Senator Kilby.
Memorials, Recognition -- Jami Mayberry.

Senate Resolution No. 109 by Senator Ketrone.
Memorials, Interns -- Michael Begley.

RESOLUTIONS LYING OVER

House Joint Resolution No. 19 -- General Assembly, Studies -- Creates special joint committee to study public school drop-out rates.

The Speaker announced that he had referred House Joint Resolution No. 19 to Committee on Delayed Bills.

House Joint Resolution No. 58 -- General Assembly, Studies -- Creates special joint committee to study rural water supply, water resources and environment.

The Speaker announced that he had referred House Joint Resolution No. 58 to Committee on Delayed Bills.

House Joint Resolution No. 59 -- General Assembly, Studies -- Creates special joint committee to study economic development.

The Speaker announced that he had referred House Joint Resolution No. 59 to Committee on Delayed Bills.

House Joint Resolution No. 175 -- General Assembly, Directed Studies -- Creates special joint committee to study infant mortality due to premature births.

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The Speaker announced that he had referred House Joint Resolution No. 175 to Committee on Delayed Bills.

House Joint Resolution No. 274 -- General Assembly, Directed Studies -- Creates special joint committee to study present alignment and organization of trial court judicial districts, allocation of judges, judicial personnel, district attorneys general and district public defenders, and to determine if there exists need to change present system to make it more efficient and responsive to public.

The Speaker announced that he had referred House Joint Resolution No. 274 to Committee on Delayed Bills.

House Joint Resolution No. 423 -- General Assembly, Studies -- Creates special joint committee to study municipal courts.

The Speaker announced that he had referred House Joint Resolution No. 423 to Committee on Delayed Bills.

House Joint Resolution No. 508 -- Memorials, Retirement -- Dr. Robert H. Kirk.

The Speaker announced that he had referred House Joint Resolution No. 508 to Committee on Calendar.

House Joint Resolution No. 572 -- General Assembly, Studies -- Continues special joint committee to study restructuring of electric utility industry.

The Speaker announced that he had referred House Joint Resolution No. 572 to Committee on Delayed Bills.

House Joint Resolution No. 597 -- Memorials, Congress -- Urges full funding of 21st Century Learning Centers Program in fiscal year 2004 federal budget.

The Speaker announced that he had referred House Joint Resolution No. 597 to Committee on Delayed Bills.

House Joint Resolution No. 638 -- Naming and Designating -- Tennessee National Guard Armory in Lebanon for Major General Carl D. Wallace.

The Speaker announced that he had referred House Joint Resolution No. 638 to Committee on State and Local Government.

House Joint Resolution No. 651 -- Highway Signs -- Designates Highway 56 in DeKalb County "Ms. M.E. Marshall Highway".

The Speaker announced that he had referred House Joint Resolution No. 651 to Committee on Transportation.

House Joint Resolution No. 662 -- Memorials, Professional Achievement -- Martin Temple Memorial Christian Methodist Episcopal Church, National Register of Historic Places.

The Speaker announced that he had referred House Joint Resolution No. 662 to Committee on Calendar.

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House Joint Resolution No. 663 -- Memorials, Personal Achievement -- Jessica Moore, Outstanding Young Woman of Memphis.

The Speaker announced that he had referred House Joint Resolution No. 663 to Committee on Calendar.

House Joint Resolution No. 664 -- Memorials, Heroism -- Veterans of the Korean War.

The Speaker announced that he had referred House Joint Resolution No. 664 to Committee on Calendar.

House Joint Resolution No. 665 -- Memorials, Retirement -- Charles Calvin Pernell.

The Speaker announced that he had referred House Joint Resolution No. 665 to Committee on Calendar.

House Joint Resolution No. 666 -- Memorials, Congratulations -- Dickson County Bicentennial.

The Speaker announced that he had referred House Joint Resolution No. 666 to Committee on Calendar.

House Joint Resolution No. 667 -- Memorials, Interns -- Tabitha Dean.

The Speaker announced that he had referred House Joint Resolution No. 667 to Committee on Calendar.

House Joint Resolution No. 668 -- Memorials, Public Service -- Mayor Tom Rowland.

The Speaker announced that he had referred House Joint Resolution No. 668 to Committee on Calendar.

House Joint Resolution No. 669 -- Memorials, Recognition -- Hamilton High School 30th Class Unity Weekend.

The Speaker announced that he had referred House Joint Resolution No. 669 to Committee on Calendar.

House Joint Resolution No. 670 -- Memorials, Retirement -- Sheila Hickman.

The Speaker announced that he had referred House Joint Resolution No. 670 to Committee on Calendar.

House Joint Resolution No. 671 -- Memorials, Retirement -- Martha Schulz.

The Speaker announced that he had referred House Joint Resolution No. 671 to Committee on Calendar.

House Joint Resolution No. 672 -- Memorials, Retirement -- Gail Prince.

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The Speaker announced that he had referred House Joint Resolution No. 672 to Committee on Calendar.

House Joint Resolution No. 673 -- Memorials, Retirement -- Ronnie Dugger.

The Speaker announced that he had referred House Joint Resolution No. 673 to Committee on Calendar.

House Joint Resolution No. 674 -- Memorials, Retirement -- Judith Howell.

The Speaker announced that he had referred House Joint Resolution No. 674 to Committee on Calendar.

House Joint Resolution No. 675 -- Memorials, Retirement -- Peggy Thrasher.

The Speaker announced that he had referred House Joint Resolution No. 675 to Committee on Calendar.

House Joint Resolution No. 676 -- Memorials, Retirement -- Mattie Verlene Jones.

The Speaker announced that he had referred House Joint Resolution No. 676 to Committee on Calendar.

House Joint Resolution No. 677 -- Memorials, Retirement -- Beverly Wesley.

The Speaker announced that he had referred House Joint Resolution No. 677 to Committee on Calendar.

House Joint Resolution No. 678 -- Memorials, Retirement -- Kay Rawls.

The Speaker announced that he had referred House Joint Resolution No. 678 to Committee on Calendar.

House Joint Resolution No. 679 -- Memorials, Retirement -- Doyle Parham.

The Speaker announced that he had referred House Joint Resolution No. 679 to Committee on Calendar.

House Joint Resolution No. 680 -- Memorials, Retirement -- Carol Eckman.

The Speaker announced that he had referred House Joint Resolution No. 680 to Committee on Calendar.

House Joint Resolution No. 681 -- Memorials, Retirement -- Patrick Powell.

The Speaker announced that he had referred House Joint Resolution No. 681 to Committee on Calendar.

House Joint Resolution No. 682 -- Memorials, Retirement -- Ed Sandefur.

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The Speaker announced that he had referred House Joint Resolution No. 682 to Committee on Calendar.

House Joint Resolution No. 683 -- Memorials, Retirement -- Beverly Baxter.

The Speaker announced that he had referred House Joint Resolution No. 683 to Committee on Calendar.

House Joint Resolution No. 684 -- Memorials, Retirement -- Bonnie VanBibber.

The Speaker announced that he had referred House Joint Resolution No. 684 to Committee on Calendar.

House Joint Resolution No. 685 -- Memorials, Retirement -- David Collie.

The Speaker announced that he had referred House Joint Resolution No. 685 to Committee on Calendar.

House Joint Resolution No. 686 -- Memorials, Retirement -- Narcissus Owens.

The Speaker announced that he had referred House Joint Resolution No. 686 to Committee on Calendar.

House Joint Resolution No. 687 -- Memorials, Retirement -- Connie Morris.

The Speaker announced that he had referred House Joint Resolution No. 687 to Committee on Calendar.

House Joint Resolution No. 688 -- Memorials, Retirement -- Kay Rodgers.

The Speaker announced that he had referred House Joint Resolution No. 688 to Committee on Calendar.

House Joint Resolution No. 689 -- Memorials, Retirement -- Linda Blackmon.

The Speaker announced that he had referred House Joint Resolution No. 689 to Committee on Calendar.

House Joint Resolution No. 690 -- Memorials, Retirement -- Ronald Woody.

The Speaker announced that he had referred House Joint Resolution No. 690 to Committee on Calendar.

House Joint Resolution No. 691 -- Memorials, Retirement -- Charles "Mike" Latimer.

The Speaker announced that he had referred House Joint Resolution No. 691 to Committee on Calendar.

House Joint Resolution No. 692 -- Memorials, Retirement -- Martha Campbell.

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The Speaker announced that he had referred House Joint Resolution No. 692 to Committee on Calendar.

House Joint Resolution No. 693 -- Memorials, Retirement -- Shirley Morton.

The Speaker announced that he had referred House Joint Resolution No. 693 to Committee on Calendar.

House Joint Resolution No. 694 -- Memorials, Retirement -- William Graham Lovell, Jr.

The Speaker announced that he had referred House Joint Resolution No. 694 to Committee on Calendar.

House Joint Resolution No. 695 -- Memorials, Heroism -- Bob Ratliff, Purple Heart.

The Speaker announced that he had referred House Joint Resolution No. 695 to Committee on Calendar.

House Joint Resolution No. 696 -- Memorials, Death -- Buford Smith.

The Speaker announced that he had referred House Joint Resolution No. 696 to Committee on Calendar.

House Joint Resolution No. 697 -- Memorials, Academic Achievement -- Matthew Scott Dunn, 2003 graduate of Johnson County High School.

The Speaker announced that he had referred House Joint Resolution No. 697 to Committee on Calendar.

House Joint Resolution No. 698 -- Memorials, Heroism -- Deputy Police Chief Mike Yaniero.

The Speaker announced that he had referred House Joint Resolution No. 698 to Committee on Calendar.

House Joint Resolution No. 699 -- Memorials, Academic Achievement -- Andrew Earl Pate, Valedictorian, Lenoir City High School.

The Speaker announced that he had referred House Joint Resolution No. 699 to Committee on Calendar.

House Joint Resolution No. 700 -- Memorials, Academic Achievement -- Abbey Mae Paisley, Co-Valedictorian, Lenoir City High School.

The Speaker announced that he had referred House Joint Resolution No. 700 to Committee on Calendar.

House Joint Resolution No. 701 -- Memorials, Academic Achievement -- Benjamin Bates, Valedictorian, Lenoir City High School.

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The Speaker announced that he had referred House Joint Resolution No. 701 to Committee on Calendar.

House Joint Resolution No. 702 -- Memorials, Academic Achievement -- Ashley Grob, Co-Valedictorian, Lenoir City High School.

The Speaker announced that he had referred House Joint Resolution No. 702 to Committee on Calendar.

House Joint Resolution No. 703 -- Memorials, Professional Achievement -- H. Dean Stone.

The Speaker announced that he had referred House Joint Resolution No. 703 to Committee on Calendar.

House Joint Resolution No. 704 -- Memorials, Heroism -- Thomas Howard Bettis.

The Speaker announced that he had referred House Joint Resolution No. 704 to Committee on Calendar.

House Joint Resolution No. 705 -- Memorials, Heroism -- Ralph J. Shope.

The Speaker announced that he had referred House Joint Resolution No. 705 to Committee on Calendar.

House Joint Resolution No. 706 -- Memorials, Heroism -- Joe D. Mourfield.

The Speaker announced that he had referred House Joint Resolution No. 706 to Committee on Calendar.

House Joint Resolution No. 707 -- Memorials, Heroism -- Charles A. Bettis.

The Speaker announced that he had referred House Joint Resolution No. 707 to Committee on Calendar.

House Joint Resolution No. 708 -- Memorials, Personal Occasion -- Page Family Reunion.

The Speaker announced that he had referred House Joint Resolution No. 708 to Committee on Calendar.

House Joint Resolution No. 709 -- Memorials, Sports -- Dobyms-Bennett High School Tennis.

The Speaker announced that he had referred House Joint Resolution No. 709 to Committee on Calendar.

House Joint Resolution No. 710 -- Memorials, Recognition -- Cosby Kennedy.

The Speaker announced that he had referred House Joint Resolution No. 710 to Committee on Calendar.

House Joint Resolution No. 711 -- Memorials, Retirement -- Daisy Renodin Hunter.

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The Speaker announced that he had referred House Joint Resolution No. 711 to Committee on Calendar.

House Joint Resolution No. 712 -- Memorials, Interns -- Latricia Thomas.

The Speaker announced that he had referred House Joint Resolution No. 712 to Committee on Calendar.

House Joint Resolution No. 713 -- Memorials, Interns -- Eric Poole.

The Speaker announced that he had referred House Joint Resolution No. 713 to Committee on Calendar.

House Joint Resolution No. 714 -- Memorials, Interns -- Kevin William Teets, Jr.

The Speaker announced that he had referred House Joint Resolution No. 714 to Committee on Calendar.

House Joint Resolution No. 715 -- Memorials, Interns -- Matthew Walter Maxey.

The Speaker announced that he had referred House Joint Resolution No. 715 to Committee on Calendar.

House Joint Resolution No. 716 -- Memorials, Interns -- Carl Cullen Earnest.

The Speaker announced that he had referred House Joint Resolution No. 716 to Committee on Calendar.

House Joint Resolution No. 717 -- Memorials, Interns -- Nicholas Alexander Holton.

The Speaker announced that he had referred House Joint Resolution No. 717 to Committee on Calendar.

House Joint Resolution No. 718 -- Memorials, Interns -- Adonius Michelle Wright.

The Speaker announced that he had referred House Joint Resolution No. 718 to Committee on Calendar.

House Joint Resolution No. 719 -- Memorials, Sports -- Ripley High School baseball team, 2003 Class AA State Champions.

The Speaker announced that he had referred House Joint Resolution No. 719 to Committee on Calendar.

House Joint Resolution No. 720 -- Memorials, Professional Achievement -- Association of African-American Museums.

The Speaker announced that he had referred House Joint Resolution No. 720 to Committee on Calendar.

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Senate Joint Resolution No. 600 -- Memorials, Public Service -- George Thomas, Esq., Grand Marshal of Dresden Iris Day Parade.

The Speaker announced that he had referred Senate Joint Resolution No. 600 to Committee on Calendar.

Senate Joint Resolution No. 601 -- Memorials, Academic Achievement -- John Kevin Bay, Salutatorian, Union City High School.

The Speaker announced that he had referred Senate Joint Resolution No. 601 to Committee on Calendar.

Senate Joint Resolution No. 602 -- Memorials, Academic Achievement -- Beth Frances Brown, Valedictorian, Union City High School.

The Speaker announced that he had referred Senate Joint Resolution No. 602 to Committee on Calendar.

Senate Joint Resolution No. 603 -- Memorials, Academic Achievement -- Mallary Hodges, Salutatorian, Gleason High School.

The Speaker announced that he had referred Senate Joint Resolution No. 603 to Committee on Calendar.

Senate Joint Resolution No. 604 -- Memorials, Academic Achievement -- Haley Anne Hudson, Valedictorian, Gleason High School.

The Speaker announced that he had referred Senate Joint Resolution No. 604 to Committee on Calendar.

Senate Joint Resolution No. 605 -- Memorials, Professional Achievement -- Anita Baltimore, President-Elect of American Society of Interior Designers.

The Speaker announced that he had referred Senate Joint Resolution No. 605 to Committee on Calendar.

Senate Joint Resolution No. 606 -- Memorials, Academic Achievement -- Zachary Roeder, Valedictorian, Sevier County High School.

The Speaker announced that he had referred Senate Joint Resolution No. 606 to Committee on Calendar.

Senate Joint Resolution No. 607 -- Memorials, Academic Achievement -- Chenoa Dawn Allen, Valedictorian, Gatlinburg-Pittman High School.

The Speaker announced that he had referred Senate Joint Resolution No. 607 to Committee on Calendar.

Senate Joint Resolution No. 609 -- Memorials, Death -- Edward Rupert "Eddie" Cox.

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The Speaker announced that he had referred Senate Joint Resolution No. 609 to Committee on Calendar.

Senate Joint Resolution No. 613 -- Memorials, Death -- Chancellor Joe C. Morris.

The Speaker announced that he had referred Senate Joint Resolution No. 613 to Committee on Calendar.

Senate Joint Resolution No. 614 -- Memorials, Professional Achievement -- Judge Thomas L. Moore, Jr.

The Speaker announced that he had referred Senate Joint Resolution No. 614 to Committee on Calendar.

Senate Joint Resolution No. 615 -- Memorials, Sports -- Ashley McElhiney, outstanding basketball career.

The Speaker announced that he had referred Senate Joint Resolution No. 615 to Committee on Calendar.

Senate Resolution No. 104 -- Memorials, Heroism -- Captain Stephen Shrader.

The Speaker announced that he had referred Senate Resolution No. 104 to Committee on Calendar.

Senate Resolution No. 105 -- Memorials, Interns -- Aketa Simmons.

The Speaker announced that he had referred Senate Resolution No. 105 to Committee on Calendar.

MOTION

Senator Kilby moved that the rules be suspended for the immediate consideration of **Senate Resolution No. 108**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Resolution No. 108 -- Memorials, Recognition -- Jami Mayberry.

On motion of Senator Kilby, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Resolution No. 108** was adopted by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

PRESENTATION

Senator Kilby presented **Senate Resolution No. 108** to Ms. Jami Mayberry.

CONSENT CALENDAR NO. 1

House Joint Resolution No. 662 -- Memorials, Professional Achievement -- Martin Temple Memorial Christian Methodist Episcopal Church, National Register of Historic Places.

House Joint Resolution No. 663 -- Memorials, Personal Achievement -- Jessica Moore, Outstanding Young Woman of Memphis.

House Joint Resolution No. 664 -- Memorials, Heroism -- Veterans of the Korean War.

House Joint Resolution No. 665 -- Memorials, Retirement -- Charles Calvin Pernell.

House Joint Resolution No. 666 -- Memorials, Congratulations -- Dickson County Bicentennial.

House Joint Resolution No. 667 -- Memorials, Interns -- Tabitha Dean.

House Joint Resolution No. 668 -- Memorials, Public Service -- Mayor Tom Rowland.

House Joint Resolution No. 669 -- Memorials, Recognition -- Hamilton High School 30th Class Unity Weekend.

House Joint Resolution No. 670 -- Memorials, Retirement -- Sheila Hickman.

House Joint Resolution No. 671 -- Memorials, Retirement -- Martha Schulz.

House Joint Resolution No. 672 -- Memorials, Retirement -- Gail Prince.

House Joint Resolution No. 673 -- Memorials, Retirement -- Ronnie Dugger.

House Joint Resolution No. 674 -- Memorials, Retirement -- Judith Howell.

House Joint Resolution No. 675 -- Memorials, Retirement -- Peggy Thrasher.

House Joint Resolution No. 676 -- Memorials, Retirement -- Mattie Verlene Jones.

House Joint Resolution No. 677 -- Memorials, Retirement -- Beverly Wesley.

House Joint Resolution No. 678 -- Memorials, Retirement -- Kay Rawls.

House Joint Resolution No. 679 -- Memorials, Retirement -- Doyle Parham.

House Joint Resolution No. 680 -- Memorials, Retirement -- Carol Eckman.

House Joint Resolution No. 681 -- Memorials, Retirement -- Patrick Powell.

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House Joint Resolution No. 682 -- Memorials, Retirement -- Ed Sandefur.

House Joint Resolution No. 683 -- Memorials, Retirement -- Beverly Baxter.

House Joint Resolution No. 684 -- Memorials, Retirement -- Bonnie VanBibber.

House Joint Resolution No. 685 -- Memorials, Retirement -- David Collie.

House Joint Resolution No. 686 -- Memorials, Retirement -- Narcissus Owens.

House Joint Resolution No. 687 -- Memorials, Retirement -- Connie Morris.

House Joint Resolution No. 688 -- Memorials, Retirement -- Kay Rodgers.

House Joint Resolution No. 689 -- Memorials, Retirement -- Linda Blackmon.

House Joint Resolution No. 690 -- Memorials, Retirement -- Ronald Woody.

House Joint Resolution No. 691 -- Memorials, Retirement -- Charles "Mike" Latimer.

House Joint Resolution No. 692 -- Memorials, Retirement -- Martha Campbell.

House Joint Resolution No. 693 -- Memorials, Retirement -- Shirley Morton.

House Joint Resolution No. 694 -- Memorials, Retirement -- William Graham Lovell, Jr.

House Joint Resolution No. 695 -- Memorials, Heroism -- Bob Ratliff, Purple Heart.

House Joint Resolution No. 696 -- Memorials, Death -- Buford Smith.

House Joint Resolution No. 697 -- Memorials, Academic Achievement -- Matthew Scott Dunn, 2003 graduate of Johnson County High School.

House Joint Resolution No. 698 -- Memorials, Heroism -- Deputy Police Chief Mike Yaniero.

House Joint Resolution No. 699 -- Memorials, Academic Achievement -- Andrew Earl Pate, Valedictorian, Lenoir City High School.

House Joint Resolution No. 701 -- Memorials, Academic Achievement -- Benjamin Bates, Valedictorian, Lenoir City High School.

House Joint Resolution No. 702 -- Memorials, Academic Achievement -- Ashley Grob, Co-Valedictorian, Lenoir City High School.

House Joint Resolution No. 703 -- Memorials, Professional Achievement -- H. Dean Stone.

House Joint Resolution No. 704 -- Memorials, Heroism -- Thomas Howard Bettis.

House Joint Resolution No. 705 -- Memorials, Heroism -- Ralph J. Shope.

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House Joint Resolution No. 706 -- Memorials, Heroism -- Joe D. Mourfield.

House Joint Resolution No. 707 -- Memorials, Heroism -- Charles A. Bettis.

House Joint Resolution No. 708 -- Memorials, Personal Occasion -- Page Family Reunion.

House Joint Resolution No. 709 -- Memorials, Sports -- Dobyns-Bennett High School Tennis.

House Joint Resolution No. 710 -- Memorials, Recognition -- Cosby Kennedy.

House Joint Resolution No. 711 -- Memorials, Retirement -- Daisy Renodin Hunter.

House Joint Resolution No. 712 -- Memorials, Interns -- Latricia Thomas.

House Joint Resolution No. 713 -- Memorials, Interns -- Eric Poole.

Senate Joint Resolution No. 600 -- Memorials, Public Service -- George Thomas, Esq., Grand Marshal of Dresden Iris Day Parade.

Senate Joint Resolution No. 601 -- Memorials, Academic Achievement -- John Kevin Bay, Salutatorian, Union City High School.

Senate Joint Resolution No. 602 -- Memorials, Academic Achievement -- Beth Frances Brown, Valedictorian, Union City High School.

Senate Joint Resolution No. 603 -- Memorials, Academic Achievement -- Mallary Hodges, Salutatorian, Gleason High School.

Senate Joint Resolution No. 604 -- Memorials, Academic Achievement -- Haley Anne Hudson, Valedictorian, Gleason High School.

Senate Joint Resolution No. 605 -- Memorials, Professional Achievement -- Anita Baltimore, President-Elect of American Society of Interior Designers.

Senate Joint Resolution No. 606 -- Memorials, Academic Achievement -- Zachary Roeder, Valedictorian, Sevier County High School.

Senate Joint Resolution No. 607 -- Memorials, Academic Achievement -- Chenoa Dawn Allen, Valedictorian, Gatlinburg-Pittman High School.

Senate Joint Resolution No. 609 -- Memorials, Death -- Edward Rupert "Eddie" Cox.

Senate Joint Resolution No. 613 -- Memorials, Death -- Chancellor Joe C. Morris.

Senate Joint Resolution No. 614 -- Memorials, Professional Achievement -- Judge Thomas L. Moore, Jr.

Senate Joint Resolution No. 615 -- Memorials, Sports -- Ashley McElhiney, outstanding basketball career.

Senate Resolution No. 104 -- Memorials, Heroism -- Captain Stephen Shrader.

Senate Resolution No. 105 -- Memorials, Interns -- Aketa Simmons.

Senator Crowe moved that all Senate Joint Resolutions and Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

CONSENT CALENDAR NO. 2

House Joint Resolution No. 454 -- General Assembly, Statement of Intent or Position -- Urges Federal Energy Regulatory Commission to renew license for Tapoco Hydroelectric Project.

House Joint Resolution No. 530 -- Memorials, Congress -- Urges reauthorization of Surface Mining Control and Reclamation Act through 2016; urges reappropriation of reclamation funds to Office of Mining.

Senate Joint Resolution No. 579 -- General Assembly, Studies -- Creates special joint committee to study communications security.

Senate Resolution No. 97 -- General Assembly, Studies -- Creates special committee to study communications security and theft of communication services.

Senate Resolution No. 107 -- General Assembly, Directed Studies -- Directs select oversight committee on education to study governance system of higher education in Tennessee.

Senate Bill No. 1034 -- Sunset Laws -- Gibson County water projects authority, June 30, 2009. Amends TCA Title 4, Chapter 29 and Title 64, Chapter 1.

On motion, Senate Bill No. 1034 was made to conform with **House Bill No. 1544**.

On motion, House Bill No. 1544, on same subject, was substituted for Senate Bill No. 1034.

Senate Bill No. 1036 -- Sunset Laws -- Review committee, June 30, 2009. Amends TCA Title 4, Chapter 29 and Title 12, Chapter 4.

On motion, Senate Bill No. 1036 was made to conform with **House Bill No. 1519**.

On motion, House Bill No. 1519, on same subject, was substituted for Senate Bill No. 1036.

Senate Bill No. 1477 -- Sunset Laws -- Commission for uniform legislation, June 30, 2009. Amends TCA Title 4, Chapter 9 and Title 4, Chapter 29.

On motion, Senate Bill No. 1477 was made to conform with **House Bill No. 1528**.

On motion, House Bill No. 1528, on same subject, was substituted for Senate Bill No. 1477.

Senator Crowe moved that all Senate Joint Resolutions and Senate Resolutions be adopted; all House Joint Resolutions be concurred in; and all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

LOCAL BILL
CONSENT CALENDAR

Senate Bill No. 2044 -- Hardeman County -- Subject to local approval, revises certain budget procedures relative to education fund. Amends Chapter 68 of the Private Acts of 1937.

On motion, Senate Bill No. 2044 was made to conform with **House Bill No. 2127**.

On motion, House Bill No. 2127, on same subject, was substituted for Senate Bill No. 2044.

Senate Bill No. 2036 -- Decatur -- Subject to local approval, rewrites charter. Amends Chapter 83 of the Acts of 1905.

On motion, Senate Bill No. 2036 was made to conform with **House Bill No. 2120**.

On motion, House Bill No. 2120, on same subject, was substituted for Senate Bill No. 2036.

Senate Bill No. 2037 -- Clay County -- Subject to local approval, authorizes county legislative body to impose \$25.00 wheel tax on motor-driven vehicles for privilege of using public roads and county highways; excludes motorcycles, motor-driven bicycles and scooters, farm tractors, self-propelled farm machinery and government vehicles.

On motion, Senate Bill No. 2037 was made to conform with **House Bill No. 2121**.

On motion, House Bill No. 2121, on same subject, was substituted for Senate Bill No. 2037.

Senate Bill No. 2042 -- Rutherford County -- Subject to local approval, creates human resources department.

On motion, Senate Bill No. 2042 was made to conform with **House Bill No. 2125**.

On motion, House Bill No. 2125, on same subject, was substituted for Senate Bill No. 2042.

Senate Bill No. 2043 -- Macon County -- Subject to local approval, authorizes county to regulate certain abandoned, wrecked, dismantled, junked or inoperative motor vehicles.

On motion, Senate Bill No. 2043 was made to conform with **House Bill No. 2126**.

On motion, House Bill No. 2126, on same subject, was substituted for Senate Bill No. 2043.

Senate Bill No. 2045 -- Macon County -- Subject to local approval, enacts nuisance law for health and sanitation violations.

On motion, Senate Bill No. 2045 was made to conform with **House Bill No. 2128**.

On motion, House Bill No. 2128, on same subject, was substituted for Senate Bill No. 2045.

Senator Crowe moved that all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--30.

A motion to reconsider was tabled.

MOTION

Senator Miller moved that the rules be suspended for the purpose of placing **Senate Bill No. 2049** on the calendar for today, which motion prevailed.

MESSAGE CALENDAR

Senator Clabough moved that **House Bill No. 466** be placed at the heel of the message calendar for today, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1946 -- Special License Plates -- Authorizes issuance of NASCAR new specialty earmarked license plates; allocates 50 percent of funds produced from sale thereof to Tennessee State Museum Foundation. Amends TCA Title 55, Chapter 4.

Senator Williams moved to take from the table a motion to reconsider on **House Bill No. 1946**, which motion prevailed.

Senator Williams moved that the Senate reconsider its action in passing **House Bill No. 1946**, which motion prevailed.

Senator Williams moved that the Senate reconsider its action in adopting Amendment No. 4 to **House Bill No. 1946**, which motion prevailed.

Senator Williams moved that Amendment No. 4 go to the table, which motion prevailed.

Thereupon, **House Bill No. 1946**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron,

Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--31.

Senator voting no was: Cohen--1.

A motion to reconsider was tabled.

MOTION

Senator McNally moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 620**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 620 -- Memorials, Professional Achievement -- Ronnie Greer, U.S. District Court nominee.

On motion of Senator McNally, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 620** was adopted by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--32.

A motion to reconsider was tabled.

WITHDRAWAL

Senator McNally moved that **Senate Joint Resolution No. 617** be withdrawn, which motion prevailed.

MESSAGE CALENDAR

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 38 -- Vending Machines -- Exempts vending machines operated for benefit of charitable entity from sales tax; imposes privilege tax on such vending machines. Amends TCA Title 67, Chapter 4, Part 5.

HOUSE AMENDMENT NO. 2

AMEND by inserting the following language to subsection (a) of Section 1, as amended, as a new subdivision (4):

(4) Gross receipts taxed under this section shall be exempt from the sales and use tax levied by Chapter 6 of this title.

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AND FURTHER AMEND by deleting Section 2 in its entirety and by renumbering Section 3 as Section 2.

Senator Crutchfield moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 38**, which motion prevailed by the following vote:

Ayes	27
Noes	0
Present, not voting . . .	2

Senators voting aye were: Atchley, Beavers, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland and Williams--27.

Senators present and not voting were: Cohen and Trail--2.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 5

AMEND by deleting the following language from the amendatory Section 67-4-506(a) in Section 1 of the bill as amended:

(3) For purposes of this section, "charitable non-profit organization" shall not include any organized labor organization.

Senator Crutchfield moved that the Senate concur in House Amendment No. 5 to **Senate Bill No. 38**, which motion prevailed by the following vote:

Ayes	29
Noes	0

Senators voting aye were: Atchley, Beavers, Burchett, Burks, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1665 -- Taxes, Hotel/Motel -- Clarifies that Shelby County is exempt from limitations on hotel tax. Amends TCA Section 67-4-1425.

HOUSE AMENDMENT NO. 2

AMEND by deleting the period at the end of amendatory subdivision (2) of Section 1 and adding the language "; or"

AND FURTHER AMEND by adding the following language as a new subdivision (3) to Section 1:

(3) Contains an airport with regularly scheduled commercial passenger service, and the creating municipality of the metropolitan airport authority for the airport is not located within such county. The tax levied on occupancy of hotels by cities located within such a county may only be used for tourism as defined by Tennessee Code Annotated, Section 7-4-101(8).

Senator Person moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 1665**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail and Williams--31.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 3

AMEND by adding the following language at the end of the amendatory language of Section 1, as amended:

Provided, however, that a municipality located in any county to which this subsection applies shall not be authorized to levy a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount exceeding five percent (5%) of the consideration charged by the operator.

Senator Person moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 1665**, which motion prevailed by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--30.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 4

AMEND by adding the following language at the end of subsection (c) of the amendatory language of Section 1:

Provided that if a municipality located in such county is incorporated under the general law, then such municipality is authorized to levy a privilege tax by ordinance adopted by a two-thirds (2/3) vote of its governing body upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent (5%) of the consideration charged by the operator. Such ordinance shall set forth the manner of collection and administration of such privilege tax.

Senator Person moved that the Senate concur in House Amendment No. 4 to **Senate Bill No. 1665**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail and Williams--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1648 -- Sunset Laws -- State board for licensing contractors, June 30, 2009. Amends TCA Title 4, Chapter 29 and Title 62, Chapter 6.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Title 62, Chapter 6, Part 1, is amended by adding the following language as new, appropriately designated sections:

62-6-133. (a) The following acts are prohibited by a residential contractor:

(1) Having a controlling ownership interest in the lender providing a mortgage loan for home improvement for the work being performed by the contractor; or

(2) Being a co-signer or acting as a guarantor for a mortgage loan for home improvement.

(b) As used in this section, "mortgage loan for home improvement" shall have the same meaning as defined in § 45-13-123(c).

62-6-134. (a) For each violation of § 62-6-133 by a residential contractor, the board is authorized to impose a civil penalty in an amount not to exceed twenty-five thousand dollars (\$25,000) after notice and an opportunity for a hearing. Such penalty shall be in addition to any other penalty authorized pursuant to this part.

(b) In addition to the civil penalty authorized pursuant to subsection (a), a violation of § 62-6-133 shall be construed to constitute an unfair or deceptive act or practice affecting the conduct of trade or commerce under the Tennessee Consumer Protection Act, and as such the private right of action remedy under such act shall be available to any person who suffers an ascertainable loss of money or property, real,

personal, or mixed, or any other article, commodity, or thing of value wherever situated as a result of such violation.

Senator Harper moved that **Senate Bill No. 1648** be placed on the next message calendar for today, which motion prevailed.

Senator Person moved that **Senate Bill No. 1344** be placed on the next message calendar for today, which motion prevailed.

MOTION

Senator Crutchfield moved that the rules be suspended for the immediate consideration of **Senate Bill No. 899**, out of order, which motion prevailed.

CALENDAR

Senate Bill No. 899 -- Taxes -- Reduces from 30 to 20 days time period in which commissioner of revenue must remit tax revenues to comptroller. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 49; Title 54; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71.

Senator Crutchfield moved that **Senate Bill No. 899** be considered first after the Senate returns from recess, which motion prevailed.

MOTION

Senator Ramsey moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 572**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 572 -- General Assembly, Studies -- Continues special joint committee to study restructuring of electric utility industry.

On motion of Senator Ramsey, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 572** was concurred in by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1499 -- Sunset Laws -- Commission on responsible fatherhood, June 30, 2005. Amends TCA Title 4, Chapter 29.

Senator Harper moved that the Senate refuse to recede from its action in adopting Amendment No. 1 to **House Bill No. 1499**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1664 -- Textbooks -- Requires State Board of Education to adopt maximum weight standards for elementary and secondary school textbooks taking into consideration health risks to pupils. Amends TCA Title 49.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 6, Part 22, is amended by adding the following as a new, appropriately designated section:

49-6-22___. On or before July 1, 2004, the state board of education shall study and make recommendations concerning weight of textbooks used by pupils in elementary and secondary schools. The board shall submit these recommendations to the General Assembly on an annual basis.

SECTION 2 This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Person moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 1664**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 172 -- Workers' Compensation -- Clarifies that employer and employee representatives on advisory council on workers' compensation are not required to file state travel forms if they are not seeking reimbursement under state travel rules. Amends TCA Title 13, Chapter 7; Title 38, Chapter 6; Title 50, Chapter 3; Title 50, Chapter 6; Title 50, Chapter 9 and Title 56.

HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT NO. 2

AMEND by deleting the amendatory and directory language of Amendment No. 2 in its entirety and by substituting instead the following:

AMEND by deleting Section 4, as amended, and by substituting instead the following:

SECTION 4. Tennessee Code Annotated, Section 50-6-244, is amended by adding the following new subsection:

(1) If the Commissioner of Labor and Workforce Development, or the commissioner's designee, determines that an insurer or self-insured employer fails to complete substantially and file the statistical data forms with such frequency as to indicate a general business practice, the commissioner may assess a monetary penalty against the insurance company for the employer or against the employer, if self-insured. The amount of the monetary penalty shall not exceed one hundred dollars (\$100). For the purposes of this subsection, "general business practice" means an insurer or self-insured employer fails to complete substantially and file a statistical data form more than five (5) times.

(2) No monetary penalty may be assessed by the commissioner, or the commissioner's designee, with respect to a form that has been filed with the division of workers' compensation for more than ninety (90) days. No monetary penalty may be assessed for a statistical data form that was not filed with the court clerk more than ninety (90) days from the date of entry of the final order of the court. No monetary penalty may be assessed due to the failure to provide information on the statistical data form that is solely within the knowledge of the employee or due solely to the failure of the employee to sign such form.

(3) The commissioner, or the commissioner's designee, shall notify the following entities of the provisions of this section before January 1, 2004:

(A) Insurance companies licensed to write workers' compensation coverage in Tennessee;

(B) Employers who are self-insured pursuant to Section 50-6-405;

(C) The Tennessee Trial Lawyers Association;

(D) The Tennessee Defense Lawyers Association;

(E) The Tennessee Bar Association;

(F) The Administrative Office of the Courts; and

(G) The County Officials Association of Tennessee.

(4) An insurance company or self-insured employer assessed a monetary penalty by the commissioner pursuant to this subsection, may appeal the penalty under the Uniform Administrative Procedures Act in Tennessee Code Annotated, Title 4, Chapter 5. The commissioner, or an agency member appointed by the commissioner, shall have the authority to hear as a contested case an administrative appeal of any monetary penalty assessed pursuant to this subsection.

AND FURTHER AMEND by adding the following sentence to the effective date section.

Provided, however, the notice provisions of Section 4()(3) shall take effect upon becoming a law, the public welfare requiring it. The other provisions of Section 4 shall take effect on January 1, 2004, the public welfare requiring it.

HOUSE AMENDMENT NO. 2

AMEND by deleting Section 3 of the bill as amended in its entirety and by substituting instead the following new language:

SECTION 3. Tennessee Code Annotated, Section 50-6-244(b), is amended by deleting the subsection in its entirety and by substituting instead the following new language:

(b)(1) A statistical data form may, at the option of an employer or employee, be filed for a workers' compensation matter that is concluded by settlement, whether approved by a court or the Department of Labor and Workforce Development. A statistical data form may be filed for a workers' compensation matter that is concluded by a trial so that the form reflects the trial court's ruling and information that is current as of the date the trial order is submitted to the court for approval, whether or not an appeal of the matter is anticipated or filed. A statistical data form may be either typed or completed by computer using a form available on the website of the division of workers' compensation.

(2) In cases involving a workers' compensation settlement that is approved by a court, the completed statistical data form may be filed at the same time as the order approving the settlement is filed and may be filed with the clerk of the court in which the settlement order is filed.

(3) In cases involving a workers' compensation case that is resolved by trial, the completed statistical data form may be filed at the same time as the final order is submitted to the trial court for approval and may be filed with the clerk of the court in which the matter was tried.

AND FURTHER AMEND by deleting Section 4 of the bill as amended and by substituting instead the following new language:

SECTION _____. Tennessee Code Annotated, Section 50-6-244(e), is amended by deleting the subsection in its entirety.

Senator Haynes moved that **Senate Bill No. 172** be moved three places down on the message calendar for today, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1472 -- Sunset Laws -- Department of revenue, June 30, 2007. Amends TCA Title 4, Chapter 29 and Title 4, Chapter 3.

HOUSE AMENDMENT NO. 1

AMEND by deleting in Section 2 of the bill, as amended, the language "Tennessee Code Annotated, Section 4-29-230(a)" and by substituting instead the language "Tennessee Code Annotated, Section 4-29-228(a)".

Senator Harper moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 1472**, which motion prevailed.

Senator Clabough moved that **House Bill No. 466** be moved three places down on the message calendar for today, which motion prevailed.

MOTION

Senator McLeary moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 621**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 621 -- Memorials, Death -- John Smythe.

On motion of Senator McLeary, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 621** was adopted by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MESSAGE CALENDAR

FURTHER ACTION ON SENATE BILL NO. 172

Senator Haynes moved that the Senate concur in House Amendment No. 2, as amended, to **Senate Bill No. 172**, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Cooper, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

MOTION

Senator Miller moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 616**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 616 -- Memorials, Death -- Cleaston Runion.

On motion of Senator Miller, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 616** was adopted by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MOTION

Senator Burks moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 618**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 618 -- Memorials, Interns -- Kevin Manning.

On motion of Senator Burks, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 618** was adopted by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MOTION

Senator Burks moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 619**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 619 -- Memorials, Professional Achievement -- Pam Ash.

On motion of Senator Burks, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 619** was adopted by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

RECESS

Senator Crutchfield moved the Senate stand in recess until 1:00 p.m., which motion prevailed.

CALL TO ORDER

The Senate was called to order by Mr. Speaker Wilder.

ROLL CALL

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

CALENDAR

FURTHER ACTION ON SENATE BILL NO. 899

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 1, Part 17, is amended by adding the following new section:

(a) A Certified Service Provider shall comply with the privacy policy of the Streamlined Sales and Use Tax Agreement, and such policy is enforceable by the attorney general.

(b) Returns and tax information of a Model 1 seller may be disclosed to the seller's certified service provider.

SECTION 2. Tennessee Code Annotated, Section 67-1-1802, is amended by adding the following new subsection:

(d) The provisions of this subsection are specifically made applicable to a refund arising from the application of § 67-6-507(e)(5).

SECTION 3. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (6) in its entirety.

SECTION 4. Tennessee Code Annotated, Title 67, Chapter 6, is amended by substituting the words "purchase price" for the words "cost price" wherever they appear in such chapter.

SECTION 5. Tennessee Code Annotated, Section 67-6-102(a)(7), is amended by deleting the words and punctuation "Dealer" means every person, as used in this chapter, who:" and substituting instead the following:

"Dealer" means every person, as used in this chapter, including where the context requires, Model 1, 2 and 3 sellers, who:

SECTION 6. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting the present subsection (9) in its entirety and renumbering the remaining subsections.

SECTION 7. Tennessee Code Annotated, Section 67-6-102(a)(13)(A)(iv)(B), is amended by deleting the words, number, and punctuation "the cost of which, for any single article, exceeds one thousand dollars (\$1,000)"; and is further amended by adding at the end of the subitem the following:

"for the purposes of this subdivision, 'remanufacturing' means making new or different products with new or different functions from the scrap materials used to make them.;"

SECTION 8. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (16) in its entirety and substituting instead the following:

(16) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(A) Lease or rental does not include:

(i) A transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) A transfer or possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments; or

(iii) Providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect, or set-up the tangible personal property.

(B) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC Section 7701(h)(1).

(C) This definition shall be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title 47, Chapter 2A, or other provisions of federal, state or local law.

(D) This definition shall be applied only prospectively from the date of adoption and will have no retroactive impact on existing leases or rentals.

SECTION 9. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (20) in its entirety and substituting instead the following:

(20) "Mobile telecommunications service" means the same as that term is defined in 4 United States Code Section 124(7).

SECTION 10. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (25) in its entirety and substituting instead the following:

(25) "Retail sale" or "sale at retail" means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent.

SECTION 11. Tennessee Code Annotated, Section 67-6-102(a), subsection (26), is amended by deleting item (B) in subsection (26) in its entirety and is further amended by adding to subsection (26) the following new items:

() "Sale" includes charges for admission, dues or fees which constitute a sale under this section except tickets for admission sold to a Tennessee dealer for resale upon presentation of a resale certificate. Dealers registered with the state of Tennessee for sales tax purposes may purchase tickets for resale without payment of tax upon presentation to the vendor of a valid certificate of resale;

() "Sale" includes all such transactions as the commissioner, upon investigation, finds to be in lieu of sales;

() "Sale" includes a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

() "Sale" includes a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100) or one percent (1%) of the total required payments;

SECTION 12. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (27) in its entirety and substituting instead the following:

(27)(A) "Sales price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(i) The seller's cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(iv) Delivery charges;

(v) Installation charges;

(vi) The value of exempt personal property given to the purchaser where taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise; and

(vii) Credit for any trade-in, as determined by Section 67-6-510.

(B) "Sales price" shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.

SECTION 13. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (28) in its entirety.

SECTION 14. Tennessee Code Annotated, Section 67-6-102(a), is amended by deleting subsection (30) in its entirety and substituting instead the following:

(30)(a) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes electricity, water, gas, steam, and prewritten computer software.

(b) "Tangible personal property" does not include signals broadcast over the airwaves.

SECTION 15. Tennessee Code Annotated, Section 67-6-102(a), is amended by adding the following new subdivisions:

() "Certified automated system" means software certified under the SSUTA to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

() "Certified service provider" means an agent certified under the SSUTA to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

() "Commercial air carrier" means an entity authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

() "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

() "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

() "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

() "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

() "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible

personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

() "Direct pay permit" means special written permission granted to a taxpayer by the commissioner to make all purchases free of the sales or use tax and report all sales or use tax due directly to the department.

() "Direct pay permit holder" means a taxpayer who holds a direct pay permit.

() "Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation, other than "food and food ingredients," "dietary supplements" or "alcoholic beverages":

(A) Recognized in the official United State Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them; or

(B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(C) Intended to affect the structure or any function of the body.

() "Durable medical equipment" means equipment, including repair and replacement parts for same, (but does not include "mobility enhancing equipment"), which:

(A) Can withstand repeated use; and

(B) Is primarily and customarily used to serve a medical purpose; and

(C) Generally is not useful to a person in the absence of illness or injury; and

(D) Is not worn in or on the body.

() "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

() "Local tax jurisdiction" shall mean a geographic area where the same local option tax, either county tax or a combination of county and municipal tax, applies.

() "Mobility enhancing equipment" means equipment including repair and replacement parts to same, but does not include "durable medical equipment," which:

(A) Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle; and

(B) Is not generally used by persons with normal mobility; and

(C) Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

() "Model 1 Seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

() "Model 2 Seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

() "Model 3 Seller" means a seller that has sales in at least five states that are members of the Streamlined Sales and Use Tax Agreement, has total annual sales revenue of at least five hundred million dollars (\$500,000,000), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a seller includes an affiliated group of sellers using the same proprietary system.

() "Prescription" means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state.

() "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions thereof does not cause the combination to be other than "prewritten computer software". "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software"; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute "prewritten computer software".

()(A) "Prosthetic device" means a replacement, corrective, or supportive device including repair and replacement parts for same worn on or in the body to:

- (i) Artificially replace a missing portion of the body;
- (ii) Prevent or correct physical deformity or malfunction; or
- (iii) Support a weak or deformed portion of the body.

(B) "Prosthetic device" does not include:

- (i) Corrective eyeglasses;
- (ii) Contact lenses;
- (iii) Hearing aids; and
- (iv) Dental prostheses.

() "Purchase price" applies to the measure subject to use tax and has the same meaning as sales price.

SECTION 16. Tennessee Code Annotated, Section 67-6-102, is amended by deleting subsection (b) in its entirety.

SECTION 17. Tennessee Code Annotated, Section 67-6-103, is amended by deleting subsection (f) in its entirety.

SECTION 18. Tennessee Code Annotated, Section 67-6-103, is amended by adding the following new appropriately designated subsection:

() Notwithstanding the provisions of this section to the contrary and notwithstanding the provisions of Section 67-6-710, the moneys received under the provisions of this chapter from interstate telecommunication services sold to businesses shall be distributed as follows: The revenue from a rate equal to one-half percent (0.5%) of tax shall be deposited in the general fund and earmarked for education purposes for kindergarten through grade twelve (K-12) in accordance with § 67-6-103(c)(2). The revenue from a rate equal to one-half percent (0.5%) of tax shall be distributed to incorporated municipalities in the proportion each population bears to the aggregate population of the state and to unincorporated areas of counties in the proportion each population bears to the aggregate population of the state, according to the most recent federal census and other census authorized by law. Counties and incorporated municipalities shall use such funds in the same manner and for the same purposes as funds distributed pursuant to § 67-6-712. The revenue from a rate equal to four percent (4%) of tax shall be deposited in the telecommunications ad valorem tax reduction fund created by § 67-6-222. All other revenue shall be deposited in the state general fund and allocated pursuant to § 67-6-103(a).

SECTION 19. Tennessee Code Annotated, Section 67-6-201, is amended by deleting subsections (9) and (10) and substituting the following appropriately numbered subsection:

() Charging a fee for subscription to, access to or use of television services, provided by any electronic means other than cable, wireless cable or satellite.

() Whether or not the person has a place of business in this state, delivers tangible personal property in this state, if the delivery is made to a consumer in this state or to another person, for redelivery to a consumer in this state pursuant to a retail sale made by such person to such consumer; provided that this shall not be

construed to impose a tax which is invalid either under the commerce clause or the due process clause of the Constitution of the United States.

SECTION 20. Tennessee Code Annotated, Section 67-6-202, is amended in subsection (a) by deleting the phrase "§ 67-6-702(d)" and substituting instead "§ 67-6-702".

SECTION 21. Tennessee Code Annotated, Section 67-6-202, is amended by deleting subsection (b) in its entirety and by adding the following as a new, appropriately lettered, subsection:

() This section levies a tax on the sales price of tangible personal property obtained from any vending machine or device.

SECTION 22. Tennessee Code Annotated, Section 67-6-203, is amended by deleting subsection (b) and re-designating subsection (c) accordingly.

SECTION 23. Tennessee Code Annotated, Section 67-6-204, is amended by deleting subsection (b) and re-designating the remaining sections accordingly.

SECTION 24. Tennessee Code Annotated, Section 67-6-205(a), is amended by deleting the words "of the gross charge for" and substituting instead "on the sales price of".

SECTION 25. Tennessee Code Annotated, Section 67-6-205, is amended by adding the following as a new, appropriately lettered, subsection:

() The retail sale of the following services are taxable under this chapter:

(1) The sale, rental or charges for any rooms, lodgings, or accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, tourist cabin, motel, or any place in which rooms, lodgings or accommodations are furnished to transients for a consideration. The tax does not apply, however, to rooms, lodgings, or accommodations supplied to the same person for a period of ninety (90) continuous days or more;

(2) Charges for services rendered by persons operating or conducting a garage, parking lot or other place of business for the purpose of parking or storing motor vehicles. The tax does not apply, however, to charges for such services made by the state and its political subdivisions when providing on-street parking space for which charges are collected, or when operating or conducting a garage or parking lot which is unattended and such charges are collected by parking meters;

(3) The furnishing, for a consideration, of either intrastate or interstate telecommunication services;

(4) The performing for a consideration of any repair services with respect to any kind of tangible personal property;

(5) The laundering or dry cleaning of any kind of tangible personal property, excluding coin-operated laundry, dry cleaning or car wash facilities, where a charge is made therefor; provided, that the provisions of this

subdivision shall not apply to the bathing of animals provided by a licensed veterinarian when rendered for a medical purpose in conjunction with the practice of veterinary medicine, as defined in § 63-12-103;

(6) The installing of tangible personal property which remains tangible personal property after installation where a charge is made for such installation, whether or not such installation is made as an incident to the sale thereof, and whether or not any tangible personal property is transferred in conjunction with such installation service;

(7) The enriching of uranium materials, compounds, or products, which is performed on a cost-plus basis or on a "toll enrichment fee" basis;

(8) The renting or providing of space to a dealer or vendor without a permanent location in this state or to persons who are registered for sales tax at other locations in this state but who are making sales at this location on a less than permanent basis. This subdivision (8) does not apply to the renting or providing of space to a craft fair, antique mall, or book fair or gun show, if such gun show or book fair is sponsored by a not-for-profit corporation. This subdivision (8) also does not apply to the renting or providing of space at a flea market or the renting or providing of space at conventions, trade shows, or expositions, if such conventions, trade shows, or expositions do not allow the general public to enter the exhibit area for the purpose of making sales or taking orders for sales;

(9) Charging a fee for subscription to, access to or use of television services, provided by any electronic means other than cable, wireless cable, or satellite.

SECTION 26. Tennessee Code Annotated, Section 67-6-206(b), is amended in subdivision (1) by deleting the words, numbers, and punctuation "Tax at the rate of one percent (1%) is likewise" and substituting instead the following "No tax is" and by deleting the words, numbers, and punctuation "Tax at the rate of one and one-half percent (1.5%) shall be" and substituting instead "No tax is". Section 67-6-206(b) is further amended by deleting subdivisions (2) through (7) and substituting instead the following subdivision:

(2) For the purpose of this subsection, "manufacturer" means one whose principal business is fabricating or processing tangible personal property for resale, and also includes a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(A) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(B) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

"Packaging", as used in this subdivision, refers only to the fabrication and/or installation of that packaging which will accompany the automotive aftermarket product when sold at retail. The reduced rates shall apply only to such substances

used in the packaging process. Such use must be established to the satisfaction of the commissioner by separate metering or otherwise. To qualify for the exemption under this subdivision, a person shall apply for and receive a certificate of qualification for the exemption from the commissioner. Such person shall provide a copy of the certificate to that person's supplier of such substances to evidence qualification for the exemption.

SECTION 27. Tennessee Code Annotated, Section 67-6-207, is deleted in its entirety and the following new section is substituted in its place:

67-6-207. (a) The sale at retail, lease, rental, use, consumption, distribution, repair storage for use or consumption in this state of the following tangible personal property is specifically exempted from the tax imposed by this chapter when sold to a qualified farmer or nurseryman in accordance with subsection (b):

(1) any appliance used directly and principally for the purpose of producing agricultural products, including nursery products, for sale and use or consumption off the premises, but excluding an automobile, truck, household appliances or property which becomes real property when erected or installed;

(2) grain bins and attachments thereto;

(3) aircraft designed and used for crop dusting, such as an agracat or other similar airplanes which are designed for crop dusting purposes;

(4) equipment used exclusively for harvesting timber;

(5) trailers used to transport livestock, as defined in § 44-18-101;

(6) self-propelled fertilizer or chemical application equipment used to spread fertilizer or chemical on farms to aid in the production of food or fiber for human or animal consumption (notwithstanding the fact that such equipment may be mounted on a chassis with wheels), if such equipment is not designed for over-the-road use, but may be driven over-the-road from the source of supply to the farm, and tender beds and spreader beds, even if mounted on a truck chassis;

(7) systems for poultry environment control, feeding and watering poultry and conveying eggs;

(8) replacement parts or labor relative to the repair of subsections (1) - (8) hereof;

(9) "Gasoline" as defined by statute in Tennessee, upon which a privilege tax per gallon is paid, and not refunded, or gasoline or diesel fuel used for "agricultural purposes" as defined in § 67-3-1203(2); except that pre-mixed engine fuel containing gasoline and oil, produced for use in two-cycle engines and not for use in the propulsion of an aircraft, vessel or any other vehicle, that is sold in containers of one gallon (1 gal.) or less, is not exempt from the tax imposed by this chapter. For purposes of this subsection, "diesel

fuel" means any petroleum distillate with at least twelve (12) to sixteen (16) carbon atoms per molecule and which has a boiling point of between three hundred fifty degrees Fahrenheit (350 degrees F) and six hundred fifty degrees Fahrenheit (650 degrees F) or any petroleum distillate which is ordinarily and customarily sold and used as a source of fuel for diesel engines;

(10) seeds, seedlings, plants grown from seed and liners (cuttings) which will produce food or fiber (including tobacco) for human or animal consumption;

(11) fertilizer to be used to aid in the growth and development of seeds, seedlings or plants as defined in subdivision (10);

(12) pesticides which are sold for the purpose of aiding in the production of food or fiber (including tobacco) for human or animal consumption. As used in this section, "pesticide" means any substance or mixture of substances or chemicals intended for defoliating or desiccating plants or for preventing, destroying, repelling or mitigating any insects, rodents, fungi, bacteria or weeds, including, but not limited to, insecticides, fungicides, bactericides, herbicides, desiccants, defoliant, plant regulators and nematocides;

(13) containers for farm products and plastic or canvas used in the care and raising of plants, seeds or seedlings, as defined in Section (10), and plastic or canvas used in covering feed bins, silos and other similar storage structures;

(14) livestock and poultry feeds, drugs used for livestock and instruments used for the administration of such drugs;

(15) any natural or artificial substance used in the reproduction of livestock, including semen or embryos;

(16) adjuvants and surfactants solutions sold exclusively for the purpose of mixture with insecticides, pesticides, fungicides or herbicides or for use as a soil conditioner when such is intended to aid in the growth and development of food or fiber (including tobacco) for human or animal consumption;

(17) agri-sawdust;

(18) electricity and liquified gas, including, but not limited to, propane and butane used directly in the production of food or fiber for human or animal consumption or to aid in the growing of a horticultural product for sale;

(19) coal, wood, woodproducts or wood by-products, or fuel oil, which is used as energy fuel in the production of nursery and greenhouse crops.

(b) For purposes of this section, "a qualified farmer or nurseryman" means a person who meets one or more of the following criteria:

(1) that the person is the owner or lessee of agricultural land from which one thousand dollars (\$1,000) or more of agricultural products were produced or sold during the year, including payments from government sources;

(2) the person is in the business of providing for-hire custom agricultural services for the plowing, planting, harvesting, growing, raising or processing of agricultural products or for the maintenance of agricultural land;

(3) the person is the owner of land that qualifies for taxation under the provisions of the Agricultural Forest and Open Space Land Act of 1996, Tennessee Code Annotated, Sections 67-5-1001, *et seq.*;

(4) the person's federal income tax return contains one or more of the following:

(A) business activity on IRS schedule F (Profit or Loss From Farming);

(B) farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or schedule E (Supplemental Income and Loss).

(5) the person otherwise establishes to the satisfaction of the commissioner that the person is actively engaged in the business of raising, harvesting or otherwise producing agricultural commodities as defined in Section 67-6-301(c)(2).

(c) Persons seeking to become qualified farmers or nurserymen shall apply to the commissioner for authority to make purchases exempt from tax. This application shall require such information as the commissioner deems necessary. If the commissioner finds from such information that the applicant is entitled to be a qualified farmer or nurseryman, the commissioner shall issue a certificate granting such authority for a period of four (4) years or until the applicant is no longer operating within the scope of its original application. Any misrepresentation made on the application by the applicant will subject the applicant to any applicable tax, penalty and interest.

(d) Persons who have obtained authority from the commissioner to make purchases tax exempt as a qualified farmer or nurseryman shall provide their vendors with a copy of their authority and such purchases shall then be exempt from tax.

(e) Persons making purchases exempt from tax under this section shall keep records to establish that the property qualifies for the exemption. The purchaser shall be liable for tax, penalty and interest for making non-qualifying purchases without payment of tax.

SECTION 28. Tennessee Code Annotated, Section 67-6-209(b), is amended by deleting the sentence: "The exemption provided for herein for private nonprofit colleges or universities shall apply only to the state portion of the sales tax."

SECTION 29. Tennessee Code Annotated, Section 67-6-212(a), is amended by deleting the words "of the gross receipts or gross proceeds" and substituting instead "on the sales price".

SECTION 30. Tennessee Code Annotated, Title 67, Part 6, is amended by deleting Section 67-6-217 in its entirety.

SECTION 31. Tennessee Code Annotated, Section 67-6-218, is amended by deleting the section in its entirety.

SECTION 32. Tennessee Code Annotated, Section 67-6-219, is amended by deleting the section in its entirety.

SECTION 33. Tennessee Code Annotated, Section 67-6-221, is amended by deleting this section in its entirety.

SECTION 34. Tennessee Code Annotated, Title 67, Chapter 6, is amended by deleting Section 67-6-226 in its entirety.

SECTION 35. Tennessee Code Annotated, Title 67, Chapter 6, is amended by deleting Section 67-6-227 in its entirety.

SECTION 36. Tennessee Code Annotated, Section 67-6-228, is amended by deleting the present language in its entirety and substituting instead the following:

(a) Notwithstanding any provision of this part to the contrary, except as otherwise provided in subsection (c), the retail sale of food and food ingredients for human consumption shall be taxed at the rate of six percent (6%) of the sales price.

(b) Except as otherwise provided in this section, "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages, tobacco, candy, or dietary supplements.

(c) The retail sale of the food and food ingredients sold as prepared food shall be taxed at the rate of tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202.

(d) For purposes of this section:

(1) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration.

(2) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(a) A vitamin;

(b) A mineral;

(c) A herb or other botanical;

(d) An amino acid;

(e) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(f) A concentrate, metabolite, constituent, extract, or combination of any ingredient described above; and

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "Supplement Facts" box found on the label and as required pursuant to 21 C.F.R. §101.36.

(3) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller;

(ii) Two or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food.

"Prepared food" in subdivision (ii) does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses.

(4) "Alcoholic Beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume.

(5) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

SECTION 37. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding the following as a new section:

Notwithstanding the exemptions provided by §§ 67-6-322 and 67-6-329 for sales to schools, "retail sale" and "sale at retail" subject to tax include any sale of tangible personal property or taxable services to a public or private school, grades kindergarten through twelve (K-12), or school support group, where such property or services are intended for resale by the school or school support group. Resales of such tangible personal property or taxable services by such school or school support group shall not be subject to tax. If for any reason a vendor does not collect and remit tax to the department on the sale of these items to the school or school support group, then the school or school support group shall be liable for use tax based on the purchase price of the items. This section does not apply to sales of school books, and food and food ingredients, including prepared food.

SECTION 38. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by adding new appropriately designated sections as follows:

Section 67-6-2...(a) Notwithstanding any other provision of law to the contrary, the sale of a prepaid telephone calling card and/or the recharge of the card shall be subject to the tax levied by this chapter and shall be sourced under the provisions of Section 67-6-902(a) at the time of the sale or recharge. No additional tax shall be due when the telecommunication service is provided to the user of the calling card.

(b) Notwithstanding any other provision of law to the contrary, the sale of a warranty or service contract, covering the repair or maintenance of tangible personal property, shall be subject to the tax levied by this chapter and sourced under the provisions of Section 67-6-902(a) at the time of the sale of the contract. No additional tax shall be due on any repairs to the extent they are covered by the contract.

Section 67-6-2... The sale or use of computer software shall be subject to the tax levied by this chapter and sourced under the provisions of Section 67-6-902(a).

SECTION 39. Tennessee Code Annotated, Section 67-6-312, is repealed.

SECTION 40. Tennessee Code Annotated, Section 67-6-314, is amended by deleting subsections (1) through (5) and substituting instead the following:

- (1) The sale or use of prosthetic devices.
- (2) The sale or use of durable medical equipment for home use.
- (3) The sale or use of mobility enhancing equipment.
- (4) The sale or repair of surgical supports of all kinds, and other similarly medical corrective or support appliances and devices.
- (5) Any syringe used to dispense insulin.

SECTION 41. Tennessee Code Annotated, Section 67-6-318, is repealed.

SECTION 42. Tennessee Code Annotated, Section 67-6-320, is amended by deleting subsections (a) and (b) in their entirety and substituting instead the following:

(a) There is exempt from the tax imposed by this chapter any drug for human use dispensed pursuant to a prescription.

(b) There is exempt from the tax imposed by this chapter:

(1) The sale or use of insulin.

(2) The sale or use of oxygen prescribed or recommended for the medical treatment of a human being by a licensed practitioner of the healing arts, and the durable medical equipment and other equipment necessary to administer such oxygen.

SECTION 43. Tennessee Code Annotated, Section 67-6-322(g), is amended by deleting the subsection in its entirety and replacing it with the following:

(g) The sale, purchase, use, consumption or distribution of energy in the form of steam or chilled water produced and distributed by an energy resource recovery facility operated in a county with a metropolitan form of government is exempt from sales or use tax.

SECTION 44. Tennessee Code Annotated, Section 67-6-329(a)(1), is amended by replacing the comma with a period after "and not refunded" and deleting the remainder of the subdivision.

SECTION 45. Tennessee Code Annotated, Section 67-6-329, is amended by deleting subdivisions (a)(3), (a)(4), (a)(5), a(6), (a)(7), (a)(8), (a)(9), (a)(10) and (A)(17) in their entirety and the remaining sections renumbered.

SECTION 46. Tennessee Code Annotated, Section 67-6-329(a)(11), is deleted in its entirety and the remaining sections renumbered.

SECTION 47. Tennessee Code Annotated, Section 67-6-329, is amended in subdivision (a)(12) by deleting the words "and school lunches".

SECTION 48. Tennessee Code Annotated, Section 67-6-329(a), is amended by adding the following new, appropriately lettered subdivisions:

() Federal retail excise tax imposed by §§ 4051-4053 of the Internal Revenue Code of 1954, as amended, or as such tax may be amended hereafter, when such tax is a part of the sales price;

() Federal excise tax on diesel fuel purchased for off-road use as provided in Title 67, Chapter 3, whether or not such tax is required by law to be passed on to the ultimate consumer, when such tax is a part of the sales price;

() Dyed diesel fuel purchased for off-road use as provided in Title 67, Chapter 3;

() Industrial materials and explosives for future processing, manufacture or conversion into articles of tangible personal property for resale where such industrial

materials and explosives become a component part of the finished product or are used directly in fabricating, dislodging, sizing;

() Materials, containers, labels, sacks, bags or bottles used for packaging tangible personal property when such property is either sold therein directly to the consumer or when such use is incidental to the sale of such property for resale;

() Film, including negatives, used in the business of printing, or provided to a business of printing to obtain the services of such business; or typesetting used in the business of printing and materials necessary for such typesetting or typesetting or materials necessary for typesetting provided to a business of printing to obtain the services of such business;

() Home communication terminals, remote control devices, and other similar equipment purchased on or after January 1, 2000, by a cable television service provider authorized pursuant to Title 7, Chapter 59, and held for sale or lease to its subscribers;

() Charges for subscriptions to, access to, or use of television programming or television services provided by a provider of cable television service authorized pursuant to Title 7, Chapter 59, by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service), or by a provider of direct-to-home satellite service;

() Utility poles, anchors, guys, and conduits;

() Aircraft used for and owned by a person providing flight training;

() Food and food ingredients, as defined in Section 67-6-228, when sold by a public or private school.

SECTION 49. Tennessee Code Annotated, Section 67-6-330, is amended in subdivision (a)(2) by deleting the words "Gross proceeds or receipts from" and substituting instead "The sales price of", and is further amended in subdivisions (a)(7), (a)(13) and (a)(16) by deleting the words "Gross proceeds derived from" and substituting instead "The sales price of", and is further amended in subdivision (a)(15) by deleting the words "Gross proceeds or receipts derived from" and substituting instead "The sales price of".

SECTION 50. Tennessee Code Annotated, Section 67-6-330, is amended by deleting subdivision (a)(3) in its entirety and renumbering the remaining sections.

SECTION 51. Tennessee Code Annotated, Section 67-6-340, is amended by deleting subdivision (c) in its entirety.

SECTION 52. Tennessee Code Annotated, Section 67-6-348, is amended by adding the following as a new subsection:

() For purposes of this section, "clothing" shall mean all human wearing apparel suitable for general use.

SECTION 53. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new section:

(a) Notwithstanding other provisions of this chapter, except as provided in this section, no tax is imposed with respect to sales of tangible personal property to common carriers for use outside this state.

(b) Persons seeking to make purchases exempt from tax shall apply to the commissioner for a certificate as provided in § 67-6-528 to obtain the exemption. The common carrier must give a copy of the certificate to each dealer from which it intends to make purchases exempt from tax.

(c) If a common carrier fails to keep records as required by the commissioner to establish that property purchased exempt from tax was not used in this state but was removed from this state for use and consumption outside this state, then the common carrier shall be liable for tax on such property at the full rate provided by § 67-6-203 regardless of whether such carrier had previously obtained a certificate as provided by this section; provided that the carrier shall be given credit for any tax paid on such property pursuant to Title 67, Chapter 4, Part 23, as provided in Section 75 of this act.

(d) This section does not apply to sales of food and food ingredients, candy, dietary supplements, alcoholic beverages, tobacco and fuel.

SECTION 54. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following new section:

Section 67-6-3... (a) Notwithstanding other provisions of this chapter, except as provided in this section, no tax is imposed with respect to the sale or use of aviation fuel sold to commercial air carriers that is actually used in the operation of airplane or aircraft motors.

(b) Notwithstanding other provisions of this chapter, no tax is imposed with respect to the sale or use of diesel fuel sold to or used by a common carrier that is actually used in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce.

(c) Commercial air carriers seeking to make purchases of aviation fuel exempt from tax and common carriers seeking to make purchases of diesel fuel to be used in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce exempt from tax shall apply to the commissioner for a certificate as provided in § 67-6-528 to obtain the exemption. The carrier must give a copy of the certificate to each dealer from which it intends to make purchases of aviation fuel or qualified diesel fuel exempt from tax.

(d) If the commercial air carrier fails to keep records as required by the commissioner to establish that property purchased exempt from tax was actually used in the operation of airplane or aircraft motors, then the air carrier shall be liable for tax on such property at the full rate provided by § 67-6-203 regardless of whether such carrier had previously obtained a certificate as provided by this section; provided that

the carrier shall be given credit for any tax paid on such property pursuant to Title 67, Chapter 4, Part 23, as provided in Section 75 of this act.

(e) If the common carrier fails to keep records as required by the commissioner to establish that diesel fuel purchased exempt from tax was actually used in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce, then the common carrier shall be liable for tax on such property at the full rate provided by § 67-6-203 regardless of whether such carrier had previously obtained a certificate as provided by this section; provided that the carrier shall be given credit for any tax paid on such property pursuant to Title 67, Chapter 4, Part 23, as provided in Section 75 of this act.

SECTION 55. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following new section:

Section 67-6-3... There is exempt from the use tax levied by this chapter the fabrication of computer software by a person for such person's own use and consumption.

SECTION 56. Tennessee Code Annotated, Section 67-6-402(b), is amended by deleting the words "suitable brackets of prices for applying the tax or any other method" and substituting instead the following: "suitable methods for applying the tax".

SECTION 57. Tennessee Code Annotated, Title 67, Chapter 6, Part 4, is amended by adding the following new section:

(a) When a purchaser claims an exemption:

(1) The seller must obtain identifying information of the purchaser and the reason for claiming a tax exemption at the time of the purchase as determined by the member states of the Streamlined Sales and Use Tax Agreement acting jointly.

(2) A purchaser is not required to provide a signature to claim an exemption from tax unless a paper certificate is used.

(3) The seller must use the standard form for claiming an exemption electronically as adopted jointly by the member states.

(4) The seller must obtain the same information for proof of a claimed exemption regardless of the medium in which the transaction occurred.

(5) The commissioner may utilize a system wherein the purchaser exempt from the payment of the tax is issued an identification number which must be presented to the seller at the time of the sale.

(6) The seller must maintain proper records of exempt transactions and provide them to the commissioner when requested.

(b) Sellers that follow the requirements of this section are not liable for any tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption. The purchaser is liable for the tax.

(c) Sellers that do not follow the requirements of this section shall be liable for the tax.

(d) Sellers that fraudulently fail to collect tax or that solicit a purchaser to participate in the unlawful claim of an exemption shall be liable for the tax.

SECTION 58. Tennessee Code Annotated, Section 67-6-504, is amended by adding the following words and punctuation after the phrase "during the preceding calendar month" at the end of subsection (a):

"; provided that each dealer shall be required to file only one return per month for all of its locations within the state".

Section 67-6-504 is further amended by deleting subsection (e) and by adding the following new subsections:

(e) In computing the tax due or to be collected as the result of any transaction, the tax rate shall be the sum of the applicable state and local rate, if any, and the tax computation must be carried to the third decimal place. Whenever the third decimal place is greater than four, the tax shall be rounded to the next whole cent.

(f) A seller may elect to compute the tax due on a transaction on either an item or an invoice basis, and may apply the rounding rule provided for in subsection (e) to the aggregated state and local taxes. A seller shall not be required to collect the tax on a bracket system.

(g)(1) Any dealer making sales subject to the tax imposed by this chapter may choose to collect and remit taxes as a Model 1, Model 2 or Model 3 seller, subject to the provisions of this subsection. For purposes of this subsection, tax includes any associated interest and penalty.

(2) A dealer choosing Model 1 must contract with a certified service provider and must permit the certified service provider to determine the tax due, to collect the tax, to file returns and to remit the tax to the appropriate state, on all of its sales, leases or rentals of tangible personal property or services that are subject to the tax levied by this chapter or that are subject to the sales tax of any other state, including the District of Columbia, that is a member of the Streamlined Sales and Use Tax Agreement. A Model 1 seller's liability to this state for the tax levied by this chapter is limited to the tax due on its own purchases, the tax due on any of its sales, leases or rentals which are made outside the system provided by the certified service provider, and the tax due in the event of fraud by the Model 1 seller.

(3) A dealer choosing Model 2 must use a certified automated system to determine the tax due on all of its sales, leases or rentals of tangible personal property or services that are subject to the tax levied by this chapter or that are subject to the sales tax of any other state, including the District of

Columbia, that is a member of the Streamlined Sales and Use Tax Agreement. A Model 2 seller is not liable for any errors made by the certified automated system in determining the tax due on any transaction.

(4) A dealer who wishes to collect and remit taxes as a Model 3 seller must apply to and be approved by the commissioner for such certification.

(h) A certified service provider has, and is subject to, all of the rights, liabilities, duties and responsibilities imposed by this chapter as if it were the Model 1 seller for whom the certified service provider has agreed to perform all sales and use tax functions, except the Model 1 seller's obligation to remit tax on its own purchases.

(i) The commissioner may enter into contracts with certified service providers for the collection and reporting of the tax imposed under this chapter. The commissioner may enter into such contracts in conjunction with other states.

SECTION 59. Tennessee Code Annotated, Section 67-6-507, is amended by deleting subsection (e) in its entirety and substituting instead the following:

(e) A deduction from taxable sales shall be allowed for bad debts arising from a sale on which the tax imposed by this chapter was paid.

(1) Any deduction taken that is attributed to bad debts shall not include interest.

(2) For purpose of calculating the deduction, a "bad debt" is as defined in 26 U.S.C. § 166. However, the amount calculated pursuant to 26 U.S.C. § 166 shall be adjusted to exclude: financing charges or interest; sales or use taxes charged on the purchase price; uncollectable amounts on property that remain in the possession of the seller until the full purchase price is paid; expenses incurred in attempting to collect any debt, and repossessed property.

(3) The deduction provided for by this subsection shall be deducted on the return for the period during which the bad debt is written off as uncollectable in the claimant's books and records and is eligible to be deducted for federal income tax purposes. For purposes of this subsection, a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectable in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

(4) If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

(5) When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, the taxpayer may file a refund claim and receive a refund pursuant to § 67-1-1802. The statute of

limitations for filing such claim shall be measured from the due date of the return on which the bad debt could first be claimed.

(6) Where filing responsibilities have been assumed by a Certified Service Provider, the service provider may claim, on behalf of the seller, any bad debt allowance provided by this section; provided the service provider credits or refunds the full amount of any bad debt allowance or refund received to the seller.

(7) For the purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account shall be applied first proportionally to the taxable price of the property or service and the sales tax thereon, and then to interest, service charges, and any other charges.

(8) In situations where the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the member states of the Streamlined Sales and Use Tax Agreement, such allocation shall be permitted.

SECTION 60. Tennessee Code Annotated, Section 67-6-528, is amended by deleting all language in the section and substituting instead the following:

(a) Common carriers and commercial air carriers seeking to make purchases exempt from tax pursuant to Section 67-6-... or Section 67-6-... shall apply to the commissioner for a certificate. This application shall be made upon forms provided by the commissioner and shall require information deemed necessary by the commissioner to establish that the applicant is a common carrier making purchases of tangible personal property for use outside this state or is a commercial air carrier that actually uses aviation fuel in the operation of airplanes or aircraft motors or is a common carrier that actually uses diesel fuel in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce. The certificate may be revoked by the commissioner at any time if the commissioner finds that the holder no longer meets the conditions precedent for the exemption.

(b) Common carriers making purchases exempt from tax pursuant to Section 67-6-... shall keep records of all such purchases establishing to the satisfaction of the commissioner that items purchased were not used in Tennessee but were removed from this state for use and consumption outside this state.

(c) Commercial air carriers making purchases exempt from tax pursuant to Section 67-6-... shall keep records of all such purchases establishing to the satisfaction of the commissioner that the fuel was actually used in the operation of airplanes or aircraft motors.

(d) Common carriers making purchases of diesel fuel exempt from tax pursuant to Section 67-6-... shall keep records of all such purchases establishing to the satisfaction of the commissioner that the fuel was actually used in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce.

SECTION 61. Tennessee Code Annotated, Title 67, Chapter 6, Part 5, is amended by adding the following new sections:

Section __. Sellers and Certified Service Providers have no liability to the State or local jurisdictions for having charged and collected the incorrect amount of sales or use tax resulting from the seller or Certified Service Provider relying on erroneous data provided by the commissioner on tax rates, boundaries, or taxing jurisdiction assignments.

Section __. Notwithstanding Section 67-6-806(a), if a nine digit zip code designation is not available for a street address, or if a seller is unable to determine the nine digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller may apply the rate for the five digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller has exercised due diligence if the seller has attempted to determine the nine digit zip code designation by utilizing software approved by the member states to the Streamlined Sales Tax Agreement that makes this designation from the street address and the five digit zip code of the purchaser. The provisions of this section do not apply when the product purchased is received by the purchaser at the business location of the seller. The provisions of this section have no application if the commissioner provides an addressed-based provision pursuant to Section 67-6-806(d).

Section __. The department may enter into a reciprocal agreement with the comparable department of another state to furnish records concerning purchases made by citizens of the other state from a dealer in this state where the dealer collects neither a sales nor a use tax on such sales; provided, that the other state agrees to furnish the same records to this state and each sale is in excess of five hundred dollars (\$500). All dealers in Tennessee making sales to purchasers in another state where no sales or use tax is collected shall furnish the department copies of all such invoices or suitable substitutes for sales in excess of five hundred dollars (\$500) with their monthly returns; provided, that the department notifies such dealers of the existence of a reciprocal agreement.

Section __. (a) Model 1, 2, or 3 sellers shall submit their returns in such format as required by the member states to the Streamlined Sales and Use Tax Agreement; provided, however, that all such returns shall be filed electronically.

(b) Notwithstanding any provision of law to the contrary, the commissioner is authorized to require Model 1, 2, or 3 sellers twice each year to submit additional, informational returns as permitted by the members states to the Streamlined Sales and Use Tax Agreement.

(c) Notwithstanding the provisions of Section 67-1-703 to the contrary, all remittances from Model 1, 2, or 3 sellers shall be made electronically, using ACH Credit or ACH Debit processes. The commissioner is authorized to provide for an alternative method of making the payment in the event the electronic funds transfer process fails.

(d) Sellers who register using the central registration system provided by the member states to the Streamlined Sales and Use Tax Agreement, who are not Model

1, 2, or 3 sellers, and who have no legal requirement to register in this state, are not required to file a return until the earlier of one year after they initially register or when they have collected state and local taxes in the amount of \$1,000 or more; provided, however, that nothing in this subsection shall relieve a seller who collects Tennessee sales tax from its customers from liability for failure to pay over those funds to the commissioner on behalf of the state.

Section ____. (a) This section applies to sellers who satisfy all of the following requirements:

(1) The seller registers to pay and/or to collect and remit applicable sales and/or use tax on sales made to purchasers in this State in accordance with the terms of the Streamlined Sales and Use Tax Agreement within twelve months of the effective date of this state's becoming a member of the Agreement.

(2) During the twelve-month period preceding the State's becoming a member of the Agreement, the seller was not registered to collect and remit tax under this chapter.

(3) There is no audit or assessment pending with respect to the seller, and the department has not notified the seller that it will be the subject of an audit.

(b) A seller who satisfies the criteria set out in subsection (a) is not liable for sales or use tax not collected from its customers prior to the date of its registration, nor liable for any related interest or penalty, subject to the limitations contained in subsection (c).

(c)(1) A seller remains liable for tax collected from its customers but not remitted to the state, and remains liable for any related interest and penalty.

(2) A seller remains liable for any use tax due which arises from its capacity as a buyer and user or consumer of taxable items.

(3) The release from liability provided by subsection (b) is void unless the seller maintains its registration and continues to collect and remit applicable sales and use taxes for at least thirty-six months. The statute of limitations provided in Section 67-1-1501 is tolled during the thirty-six month period.

(4) Fraud or intentional misrepresentation of a material fact voids the release from liability provided by subsection (b).

Section ____. (a) These customer refund procedures apply when a purchaser seeks a refund of over-collected sales or use taxes from a seller.

(b) Nothing in this section shall require the Department to refund to a purchaser taxes collected in error by a seller from the purchaser.

(c) Nothing in this section shall operate to extend any person's time to seek a refund of sales or use taxes collected or remitted in error.

(d) A cause of action against a seller for the over-collected sales or use taxes does not accrue until a purchaser has provided a written notice of the over-collection and a request for a refund to the seller and the seller has had sixty days to respond. Such notice to the seller must contain the information necessary to determine the validity of the request.

(e) In connection with a purchaser's request from a seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller:

(A) uses either a provider or a system, including a proprietary system, that is certified by the Department; and

(B) has remitted to the state all taxes collected less any deductions, credits, or collection allowances.

SECTION 62. Tennessee Code Annotated, Section 67-6-601, is amended by adding the following as a new appropriately designated subsection:

() A person does not have nexus with Tennessee for sales and use tax purposes by reason of the relationship between the person and a commercial printer or mailer having a presence in Tennessee.

SECTION 63. Tennessee Code Annotated, Title 67, Chapter 6, Part 6, is amended by adding the following new section:

Section ___. (a) Notwithstanding the provisions of Sections 67-6-601 and 67-6-602, a person may register using the central, electronic registration system provided by member states of the Streamlined Sales and Use Tax Agreement; and furthermore the commissioner shall permit a person to register through an agent under procedures adopted by member states of the Streamlined Sales and Use Tax Agreement.

(b) By registering using the central, electronic system, the seller agrees to collect and remit sales and use taxes for all taxable sales sourced to Tennessee. If Tennessee ceases to be a member of the agreement, the seller remains liable to remit all taxes previously collected on sales sourced to this state.

SECTION 64. Tennessee Code Annotated, Section 67-6-702(d), is amended by deleting the period at the end of the first sentence and adding the following words and punctuation:

; provided, however, and notwithstanding any other law to the contrary, "single article" applies only to motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes and only such items shall be regarded as "single articles". Parts or accessories for motor vehicles that are installed at the factory and delivered with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer and/or distributor prior to sale, at the time of the sale, or

which are included as a part of the unit. In addition, all necessary parts and equipment installed by a motor vehicle dealer which are essential to the functioning of the motor vehicle or are required to be installed on the motor vehicle prior to sale to the ultimate consumer pursuant to state or federal statutes relating to the lawful use of the motor vehicle shall be treated as a part of the unit. Boat motors, other parts or accessories for boats, freight, and labor, excluding trailers, shall be treated as part of the boat unit in the same manner as parts or accessories for motor vehicles are treated as part of the motor vehicle unit. Parts and accessories and any other additional or incidental items or services that are part of the sale of a manufactured home shall be treated as part of the manufactured home unit in the same manner as parts and accessories for motor vehicles are treated as part of the motor vehicle unit.

SECTION 65. Tennessee Code Annotated, Section 67-6-702, is amended by deleting the present subsections (b), (e), (f) and (g) in their entirety, and by amending subsection (a)(1) to replace the period at the end of the subsection with a semicolon and add "and provided further that the tax levied on the sale, purchase, use, consumption of electricity, piped natural or artificial gases, or other heating fuels delivered by the seller shall be one-half percent (.5%).

SECTION 66. Tennessee Code Annotated, Section 67-6-704, is amended by deleting the subsection in its entirety and replacing it with the following words:

No county or incorporated city or town is authorized to levy a sales or use tax on the sale, purchase, use, consumption or distribution of energy in the form of steam or chilled water sold by an energy resource recovery facility operated in a county with a metropolitan form of government.

SECTION 67. Tennessee Code Annotated, Section 67-6-706(a)(3), is amended by deleting the words, numbers, and punctuation "month occurring at least thirty days" and substituting instead the words, numbers, and punctuation "calendar quarter occurring at least sixty days".

SECTION 68. Tennessee Code Annotated, Section 67-6-710, is amended by deleting subsections (e) and (f) in their entirety.

SECTION 69. Tennessee Code Annotated, Section 67-6-714, is deleted in its entirety.

SECTION 70. Tennessee Code Annotated, Chapter 67, Chapter 6, Part 7, is amended by adding the following new section:

() (a) The commissioner shall refund to the persons listed in this section the portion of the local tax imposed by this chapter that is attributable to the amendment of the single article provision of the Local Option Revenue Act by this Act, when such tax is paid to the Department or paid to other dealers by the following persons:

(1) Fabricators or processors of tangible personal property holding an authorization to purchase industrial machinery, as that term is defined in § 67-6-102, free of sales or use tax.

(2) Common carriers holding an exemption certificate pursuant to § 67-6-528.

(3) For-profit hospitals and for-profit nursing homes licensed by the department of health pursuant to § 68-11-202.

(4) Persons that engage, as their principal business, in those activities described under industry Sector 23 of the North American Industry Classification System of 2002, prepared by the office of management and budget of the federal government.

(5) Telecommunications providers that are regulated by the Federal Communications Commission or the Tennessee Regulatory Authority.

(b) The refund provided for by this section shall be limited to the difference in tax paid by the person entitled to such refund and the tax that would have been paid on the first thirty-two hundred dollars (\$3,200) of the sale price of a single article as defined in Section 67-6-702(d) on tangible personal property other than motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes prior to the effective date of Section 64 of this act.

(c) A person entitled to a refund pursuant to this section shall make a single yearly claim for refund to the commissioner, covering a period of twelve (12) consecutive calendar months, the period to be specified by the commissioner. The commissioner is authorized to make refunds pursuant to this section, provided a claim is filed with the commissioner, under oath and supported by proper proof, within six (6) months after the end of the twelve (12) month period covered by the claim. The provisions of § 67-1-1802 do not apply to refunds made pursuant to this section.

SECTION 71. Tennessee Code Annotated, Title 67, Chapter 6, Part 7, is amended by adding the following new section:

Notwithstanding any other provision in this part:

(a) A local tax imposed under this part or change in a local tax rate shall become effective only on the first day of a calendar quarter and no sooner than sixty-one days after the commissioner has made a reasonable effort to notify dealers of the new tax or change in the rate; provided, however, the failure of a dealer to receive notice does not relieve it of the obligation to collect, remit or pay the tax imposed under this part; and further provided that the failure of a purchaser to receive notice does not relieve the purchaser of any use tax obligation.

(b) Notwithstanding the provisions of subsection (a), with respect to purchases from printed catalogs where the purchaser computes the tax based on local rates published in the catalog, a local tax imposed under this part or change in a local tax rate shall become effective only on the first day of a calendar quarter and no sooner than one hundred twenty-one days after the

commissioner has made a reasonable effort to notify dealers of the new tax or change in the rate; provided, however, the failure of a dealer to receive notice does not relieve it of the obligation to collect, remit or pay the tax imposed under this part; and further provided that the failure of a purchaser to receive notice does not relieve the purchaser of any use tax obligation.

(c) For sales and use tax purposes only, local jurisdiction boundary changes shall become effective only on the first day of a calendar quarter and no sooner than sixty-one days after the commissioner has made a reasonable effort to notify dealers of the new tax or change in the rate; provided, however, the failure of a dealer to receive notice does not relieve it of the obligation to collect, remit or pay the tax imposed under this part; and further provided that the failure of a purchaser to receive notice does not relieve the purchaser of any use tax obligation.

SECTION 72. Tennessee Code Annotated, Section 67-8-802, is amended by deleting subsection (a) and substituting instead the following:

(a) For purposes of Sections 67-6-803 and 67-6-804, "agreement" means the Streamlined Sales and Use Tax Agreement as amended and adopted on January 27, 2001, by the national conference of state legislatures' special task force on state and local taxation of telecommunications and electronic commerce and adopted by the executive committee of the national conference of state legislatures; for purposes of Sections 67-6-804 through 67-6-806, "agreement" means the agreement styled "Streamlined Sales and Use Tax Agreement," adopted November 12, 2002, by the Streamlined Sales Tax Implementing States, including any amendment to the agreement so long as the amendment has also been adopted by the Streamlined Sales Tax Implementing States.

SECTION 73. Tennessee Code Annotated, Title 67, Chapter 6, Part 8, is amended by deleting Section 67-6-805 through Section 67-6-808, and by substituting instead the following new sections:

67-6-805. (a) The Commissioner of Revenue is authorized to enter into, on behalf of the State of Tennessee, the agreement styled "Streamlined Sales and Use Tax Agreement," adopted November 12, 2002, by the Streamlined Sales Tax Implementing States, including any amendment to the agreement so long as the amendment has also been adopted by the Streamlined Sales Tax Implementing States. After Tennessee becomes a member of the agreement, the commissioner is authorized to take any and all action pursuant to the state's membership in the agreement, provided such action is not inconsistent with any law of this state.

(b) No provision of any agreement entered into by the commissioner under the authority of subsection (a) invalidates or amends any provision of the law of the state of Tennessee. Implementation of any condition of the agreement in the state of Tennessee, whether adopted before, at, or after membership of the state of Tennessee in the agreement, must be authorized by the general assembly by legislative enactment.

(c) The agreement referenced in this section is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The

agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

(d) No person, other than a member state, is an intended beneficiary of the agreement. Any benefit to a person other than a state is established by the law of the state of Tennessee and the other member states and not by the terms of the agreement.

(e) No person shall have any cause of action or defense under the agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the state of Tennessee, or any political subdivision of the State of Tennessee on the grounds that the action or inaction is inconsistent with the agreement.

(f) No law of the state of Tennessee, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the agreement.

(g) Determinations pertaining to the agreement that are made by the member states are final when rendered and are not subject to protest, appeal or review in any court in this state.

67-6-806. (a) The commissioner shall provide and maintain a database that describes boundary changes for all counties, cities and towns that levy a tax pursuant to Part 7 of this chapter. This database shall include a description of the change and the effective date of the change for sales and use tax purposes.

(b) The commissioner shall provide and maintain a database of all sales and use tax rates for all counties, cities and towns of the jurisdictions that levy a tax pursuant to Part 7 of this chapter. For the identification of the state, counties, cities and towns, codes corresponding to the rates must be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology.

(c) The commissioner shall provide and maintain a database that assigns each five digit and nine digit zip code within the State to the proper tax rates and jurisdictions. If the zip code area includes more than one local tax rate, the rate assigned to that area must be the lowest rate otherwise applicable within the area.

(d) The commissioner shall participate with other member states in the development of an address-based system for assigning taxing jurisdictions. The system must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act (4 U.S.C. Sec. 119). If the commissioner develops an address-based assignment system pursuant to the Mobile Telecommunications Sourcing Act, a seller may use that system in place of the system provided for in subsection (c) of this section.

SECTION 74. Tennessee Code Annotated, Title 67, Chapter 6, is amended by adding the following new Part 9:

67-6-901. (a) Notwithstanding any other law to the contrary, this part shall apply in determining whether a transaction is subject to the tax levied under the provisions of this chapter, and if so in determining the applicable local tax levied under the provisions of Part 7 of this chapter. The provisions of this part apply regardless of the characterization of a product as tangible personal property, a digital good, or a service, and apply only to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's retail sale of a product. These provisions do not affect the obligation of a purchaser or lessee to remit tax on the use of the product to the taxing jurisdictions of that use.

(b) Nothing in this part is intended to impose tax on a transaction if a state tax on the transaction is prohibited by the United States constitution or the constitution of this state.

(c) The general provisions of §§ 67-6-902 through 67-6-905 do not apply to sales or use taxes levied on the following, except as specifically provided for in this subsection (c); instead the special provisions of § 67-6-906 shall apply:

(1) The retail sale or transfer of watercraft, modular homes, manufactured homes, or mobile homes.

(2) The retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in § 67-9-902(d). The retail sale of these items shall be sourced according to existing law as of the effective date of this part, and the lease or rental of these items shall be sourced according to § 67-9-902(d).

(3) Telecommunications services, as set out in § 67-9-905, shall be sourced in accordance with that section.

67-6-902. (a) The retail sale, excluding lease or rental, of a product shall be sourced as follows:

(1) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(2) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser (or the purchaser's donee, designated as such by the purchaser) occurs, including the location indicated by instructions for delivery to the purchaser (or donee), known to the seller.

(3) When subsections (a)(1) and (a)(2) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith.

(4) When subsections (a)(1), (a)(2), and (a)(3) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's

payment instrument, if no other address is available, when use of this address does not constitute bad faith.

(5) When none of the previous rules of subsections (a)(1), (a)(2), (a)(3), or (a)(4) apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided (disregarding for these purposes any location that merely provided the digital transfer of the product sold).

(b) The lease or rental of tangible personal property, other than property identified in subsection (c) or subsection (d), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection (a). Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (a).

(3) This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(c) The lease or rental of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in subsection (d), shall be sourced as follows:

(1) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations.

(2) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection (a).

(3) This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

(d) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection (a), notwithstanding the exclusion of lease or rental in subsection (a). For purpose of this part, "transportation equipment" means any of the following:

(1) Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce.

(2) Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of 10,001 pounds (10,001 lbs) or greater, trailers, semi-trailers, or passenger buses that are:

(i) Registered through the International Registration Plan; and

(ii) Operated under authority of a carrier authorized and certificated by the U.S. Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

(3) Aircraft that are operated by air carriers authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(4) Containers designed for use on and component parts attached or secured on the items set forth in subsections (d)(1) through (d)(3).

(e) For the purposes of subsection (a), the terms "receive" and "receipt" mean:

(1) Taking possession of tangible personal property,

(2) Making first use of services, or

(3) Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

67-6-903. (a) Notwithstanding the provisions of Section 67-6-902, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one jurisdiction shall deliver to the seller in conjunction with its purchase a Multiple Points of Use or "MPU" Exemption Certificate disclosing this fact.

(b) Upon receipt of the MPU Exemption Certificate, the seller is relieved of all obligation to collect, pay, or remit the applicable tax and the purchaser shall be obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(c) A purchaser delivering the MPU Exemption Certificate may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The MPU Exemption Certificate will remain in effect for all future sales by the seller to the purchaser (except as to the subsequent sale's specific apportionment that is governed by the principle of subsection (b) and the facts existing at the time of the sale) until it is revoked in writing.

(e) A holder of a direct pay permit shall not be required to deliver a MPU Exemption Certificate to the seller. A direct pay permit holder shall follow the provisions of subsection (c) in apportioning the tax due on a digital good or a service that will be concurrently available for use in more than one jurisdiction.

67-6-904. (a) Notwithstanding Section 67-6-902, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase either a Direct Mail Certificate or information to show the jurisdictions to which the direct mail is delivered to recipients.

(1) Upon receipt of the Direct Mail Certificate, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A Direct Mail Certificate shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(2) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a Direct Mail Certificate or delivery information, as required by subsection (a) of this section, the seller shall collect the tax according to Section 67-6-902(a)(5). Nothing in this paragraph shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a Direct Mail Certificate or delivery information to the seller.

67-6-905. (a) Except for the defined telecommunication services in subsection (c), the sale of telecommunication service sold on a call-by-call basis shall be sourced to (i) each level of taxing jurisdiction where the call originates and terminates in that

jurisdiction or (ii) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

(b) Except for the defined telecommunication services in subsection (c), a sale of telecommunications services sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

(c) The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction as follows:

(1) A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act, codified at 4 USCS §§ 116-126.

(2) A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either (i) the seller's telecommunications system, or (ii) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of prepaid calling service is sourced in accordance with Section 67-6-902. Provided however, in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the rule provided in Section 67-6-902(a)(5) shall include as an option the location associated with the mobile telephone number.

(4) A sale of a private communication service is sourced as follows:

(i) Service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located.

(ii) Service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located.

(iii) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent in each level of jurisdiction in which the customer channel termination points are located.

(iv) Service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

(d) For the purpose of this section, the following definitions apply:

(1) "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

(2) "Call-by-call Basis" means any method of charging for telecommunications services where the price is measured by individual calls.

(3) "Communications Channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

(4) "Customer" means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this sentence only applies for the purpose of sourcing sales of telecommunications services under Section 67-6-905. "Customer" does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

(5) "Customer Channel Termination Point" means the location where the customer either inputs or receives the communications.

(6) "End user" means the person who utilizes the telecommunication service. In the case of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

(7) "Home service provider" means the same as that term is defined 4 USC § 124(5).

(8) "Mobile telecommunications service" means the same as that term is defined in 4 USC § 124(7).

(9) "Place of primary use" means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, "place of primary use" must be within the licensed service area of the home service provider.

(10) "Post-paid calling service" means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to which a telephone number which is not associated with the origination or termination of the telecommunications service. A post-paid calling service includes a telecommunications service that

would be a prepaid calling service except it is not exclusively a telecommunication service.

(11) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

(12) "Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which such channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(13) "Service address" means:

(i) The location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid.

(ii) If the location in subdivision (13)(i) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(iii) If the locations in subdivisions (13)(i) and (13)(ii) are not known, the service address means the location of the customer's place of primary use.

67-6-906. (a) The retail sale or transfer, including lease or rental, of watercraft, modular homes, manufactured homes, or mobile homes; and the retail sale, excluding lease or rental, of motor vehicles, trailers, semi-trailers, or aircraft that do not qualify as transportation equipment, as defined in § 67-9-902(d); shall be sourced according to the following rules:

(b) If the sale or transfer is made by a dealer regularly engaged in such sales or transfers, the transaction is sourced to the business location of the seller.

(c) If the sale or transfer is made by a dealer who is registered with the department for sales and use taxes, but who is not regularly engaged in such sales or transfers, the transaction is sourced to the business location of the seller.

(d) In all other cases the sale or transfer is sourced to the primary location of the property. The primary property location shall be the address for the property provided by the owner and that is placed on the application for title or registration, when use of this address does not constitute bad faith. The property location shall not

be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls. If the purchaser does not apply for title or registration, the transaction shall be sourced to the place of where the property is usually located, or if that place cannot be ascertained, to the place of domicile of the purchaser.

SECTION 75. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following new part:

PART 23 – SPECIAL USER PRIVILEGE TAXES

67-4-2301. This part may be cited as the "Special User Privilege Tax Law".

67-4-2302. (a) There is levied on the purchase, use, importation for use, or consumption of the goods and services named in this part, at the rates specified by this part, a user privilege tax to be paid by the purchaser, user, or consumer.

(b) The Commissioner of Revenue shall administer and enforce the assessment and collection of the taxes levied by this part, and shall have the authority and power to prescribe the method by which persons liable for the tax levied shall remit the tax and make reports of such facts and information as will enable the commissioner to ascertain the correctness of the amount reported and paid by such persons. All persons subject to the tax levied by this part are required to register with the Department of Revenue.

(c) The exemptions provided for in Sections 67-6-308, 67-6-322(a) and (b), 67-6-329(a)(13) [exemption for sales made to state of Tennessee and to any county or municipality within the state], and 67-6-384 are applicable to the tax levied under this part.

67-4-2303. (a) There is levied a tax of 1.5% on the purchase price of water, and a tax of 1.5% on the purchase price of gas, electricity, fuel oil, coal, and other energy fuel, sold to or used by manufacturers.

(b) For the purpose of this section, "manufacturer" means one whose principal business is fabricating or processing tangible personal property for resale.

(c) Water, gas, electricity, fuel oil, coal, and other energy fuel sold to or used by manufacturers shall be exempt from the tax levied by this section whenever it may be established to the satisfaction of the commissioner, by separate metering or otherwise, that the substance is exclusively used directly in the manufacturing process, coming into direct contact with the article being fabricated or processed by the manufacturer, and being expended in the course of such contact. Whenever the commissioner determines that the use of such substance by a manufacturer meets such test, the commissioner shall issue a certificate evidencing the entitlement of the manufacturer to the exemption. The certificate may be revoked by the commissioner at any time upon a finding that the conditions precedent to the exemption no longer exist. The commissioner's action as to the granting or revoking of a certificate shall be reviewable solely by a petition for common law certiorari addressed to the chancery court of Davidson County.

(d) Any water or energy fuel used by a manufacturer in fabricating or processing tangible personal property for resale shall be exempt from the tax imposed by this section when same are produced or extracted directly by the manufacturer from facilities owned by the manufacturer or in the public domain.

(e) Notwithstanding the requirement of direct contact, there shall be exempt entirely from the tax imposed by this section electricity used to generate radiant heat for production of heat-treated glass when sold to or used by manufacturers; provided, that the manufacturer has applied for and received a certificate of exemption as required by this section.

(f) The tax levied by this section shall also apply to the use of such substances by a person engaged at a location in packaging automotive aftermarket products manufactured at other locations by the same person or by a corporation affiliated with the manufacturing corporation such that:

(1) Either corporation directly owns or controls one hundred percent (100%) of the capital stock of the other corporation; or

(2) One hundred percent (100%) of the capital stock of both corporations is directly owned or controlled by a common parent.

"Packaging", as used in this subsection, refers only to the fabrication and/or installation of that packaging which will accompany the automotive aftermarket product when sold at retail. The tax shall apply only to such substances used in the packaging process if such use is established to the satisfaction of the commissioner by separate metering or otherwise.

(g) Notwithstanding the requirement of direct contact, natural gas used to generate heat for the production of primary aluminum and aluminum can sheet products when sold to or used by manufacturers shall be exempt from the tax imposed by this section; provided, that the manufacturer applies for and receives a certificate of exemption as required by this section.

(h)(1) The tax collected on the use of water shall be distributed as follows: sixty-seven percent shall be deposited to the state general fund and the remaining thirty-three percent shall be distributed to the cities and counties in accordance with collections.

(2) The tax collected on the use of gas, electricity, fuel oil, coal, and other energy fuel shall be deposited to the state general fund.

67-4-2304. (a) There is levied a tax of 7.0% on the purchase price of energy in the form of steam or chilled water purchased from an energy resource recovery facility operated in a county with a metropolitan form of government.

(b) The tax collected on the use of gas, electricity, fuel oil, coal, and other energy fuel shall be deposited to the state general fund.

67-4-2305. (a) There is levied a tax of 5.25% on the purchase price of tangible personal property sold and delivered to common carriers in this state for use outside this state.

(b) The tax collected under this section shall be distributed as follows: 71.43 percent shall be deposited to the state general fund and the remaining 28.57 percent shall be distributed to the cities and counties in accordance with collections.

67-4-2306. (a) There is levied a tax of 4.5% on the purchase price of aviation fuel sold to or used by commercial air carriers that is actually used in the operation of airplane or aircraft motors.

(b) For purposes of this section, "commercial air carrier" means an entity authorized and certificated by the U.S. Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce.

(c) The tax collected under this section shall be distributed to the transportation equity trust fund.

67-4-2307. (a) There is levied a tax of 6.0% on the purchase price of diesel fuel sold to or used by a common carrier that is used in the operation of locomotives or railcars for the carriage of persons or property in interstate commerce.

(b) The tax collected under this section shall be distributed to the transportation equity trust fund.

SECTION 76. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following new part:

67-4-2401. (a) There is levied a privilege tax of 9 % of the gross charge for services provided by a cable television service provider authorized pursuant to Title 7, Chapter 59, by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service).

(b) Such tax shall not apply to the first fifteen dollars (\$15.00) of gross charges for television programming or television service charges or fees provided by a cable television service provider authorized pursuant to Title 7, Chapter 59, or by a provider of wireless cable television services (multipoint distribution service/multichannel multipoint distribution service) offered for public consumption.

(c) The tax collected under this section shall be distributed as follows: 82 percent shall be deposited to the state general fund and the remaining 18 percent shall be distributed to the cities and counties in accordance with collections.

67-4-2402. (a) There is levied a privilege tax of 8.25 % of the gross charge for services provided by a direct-to-home satellite service provider.

(b) The tax collected under this section shall be deposited to the state general fund.

67-4-2403. (a) The taxes levied herein shall be collected from the dealer as defined in T.C.A. § 67-6-102 and paid at the time and in the manner hereinafter provided. The tax imposed by this chapter shall be collected by the dealer from the consumer insofar as it can be done.

(b) The providers shall indicate in some definite manner whether their customers are paying this privilege tax. This indication must be stated on the ticket, invoice, or other record given to the customer.

67-4-2404. (a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this chapter, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges arising from the sale of services taxable under this chapter during the preceding calendar month.

(b) At the time of transmitting the return required hereunder to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due, and failure to so remit such tax shall cause the tax to become delinquent.

67-4-2405. (a) The Commissioner of Revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes thereby imposed.

(2) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to the provisions of this part.

67-4-2406. (a) When any person shall fail to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of same, the commissioner is authorized to determine the tax liability of such person from whatever source of information may be available to the commissioner or the commissioner's delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return, together with such supporting evidence as the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

67-4-2407. (a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of sales tax owed to the state, and the amount of such person's gross receipts taxable under this part, and such other books of account as may be necessary to determine the amount of tax

hereunder, and all such books and records shall be open to inspection at all reasonable hours to the commissioner or any person duly authorized by either of them.

(b) All such books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction(s) represented by the record.

SECTION 77. Tennessee Code Annotated, Title 67, Chapter 4, is amended by adding the following new part:

67-4-2501. (a) There is levied a privilege tax of seven percent (7.0 %) of gross charges on the retail sale of dyed diesel fuel, as that term is defined in § 67-3-1203. For purposes of this part, retail sale shall mean the same as defined in § 67-6-102.

(b) The commissioner is authorized and empowered to require the use of certificates of resale, or other satisfactory proof, as proof that any sale claimed to be other than a "retail sale" is in fact not a retail sale.

(c) The tax collected under this section shall be deposited to the state general fund.

67-4-2502. (a) The tax shall be collected from the dealer as defined in T.C.A. § 67-6-102 and paid at the time and in the manner hereinafter provided. The tax imposed by this part shall be collected by the dealer from the consumer insofar as it can be done.

(b) The dealer shall indicate in some definite manner whether its customers are paying this privilege tax. This indication must be stated on the ticket, invoice, or other record given to the customer.

67-4-2503. Sales to governmental entities that are exempt from the sales tax imposed by Title 67, Chapter 6, and sales of fuel to a "qualified farmer or nurseryman," as defined in § 67-6-207 for "agricultural purposes" as defined in § 67-3-1203, shall be exempt from the tax imposed by this part.

67-4-2504. (a) The taxes levied under this part shall be due and payable monthly, on the first day of each month, and for the purposes of ascertaining the amount of tax payable under this part, it shall be the duty of all dealers on or before the twentieth day of each month to transmit to the commissioner returns showing the gross charges of fuel taxable under this part during the preceding calendar month.

(b) At the time of transmitting the return required hereunder to the commissioner, the dealer shall remit to the commissioner therewith the amount of tax due, and failure to so remit such tax shall cause the tax to become delinquent.

67-4-2505. (a) The Commissioner of Revenue shall administer and enforce the assessment and collection of the taxes levied by this part.

(b)(1) The commissioner is authorized to prescribe all rules and regulations necessary for the administration of this part, and for the collection of the taxes thereby imposed.

(2) Rules and regulations not inconsistent with this part when promulgated by the commissioner, and approved by the attorney general and reporter, shall have the force and effect of law.

(c) The commissioner is empowered to examine the books and records of any person subject to the provisions of this part.

67-4-2506. (a) When any person shall fail to file any form, statement, report or return required to be filed with the commissioner, after being given written notice of same, the commissioner is authorized to determine the tax liability of such person from whatever source of information may be available to the commissioner or the commissioner's delegates.

(b) An assessment made by the commissioner pursuant to this authority shall be binding as if made upon the sworn statement, report or return of the person liable for the payment of such tax; and any person against whom such an assessment is lawfully made shall thereafter be estopped to dispute the accuracy thereof except upon filing a true and accurate return, together with such supporting evidence as the commissioner may require, indicating precisely the amount of the alleged inaccuracy.

67-4-2507. (a) It is the duty of every person required to pay a tax under this part to keep and preserve records showing the gross amount of sales tax owed to the state, and the amount of such person's gross retail sales taxable under this part, and such other books of account as may be necessary to determine the amount of tax hereunder, and all such books and records shall be open to inspection at all reasonable hours to the commissioner, the commissioner's delegates, or any person duly authorized by either of them.

(b) All such books and records shall be maintained by the taxpayer for a period of three (3) years from December 31 of the year in which the taxpayer is responsible for paying the tax on the transaction(s) represented by the record.

SECTION 78. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 79. Sections 20, 64 and 70 shall take effect on January 1, 2006. All other sections of this act shall take effect on January 1, 2004, the public welfare requiring it.

On motion, the amendment was adopted.

Senator Henry moved that Amendment No. 8 be considered next, which motion prevailed.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 8

AMEND by deleting Section 70 of the bill in its entirety and replacing it with the following:

SECTION 70. (a) The commissioner shall refund the portion of the local tax imposed by this chapter that is attributable to the amendment of the single article provision of the Local Option Revenue Act by this act for any taxpayers that pay business tax under Title 67, Chapter 4, Part 7; franchise and excise tax under Title 67, Chapter 4, Parts 20 and 21; or sales and use tax under Title 67, Chapter 6.

(b) The refund provided for by this section shall be limited to the difference in tax paid by the person entitled to such refund and the tax that would have been paid on the first thirty-two hundred dollars (\$3,200) of the sale price of a single article as defined in Section 67-6-702(d) on tangible personal property other than motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes prior to the effective date of Section 64 of this act. The refund shall only be allowed on tangible personal property purchased by the taxpayer for use in the business for which the taxpayer is registered under subsection (a).

(c) A person entitled to a refund pursuant to this section shall make a single yearly claim for refund to the commissioner, covering a period of twelve (12) consecutive calendar months, the period to be specified by the commissioner. The commissioner is authorized to make refunds pursuant to this section, provided a claim is filed with the commissioner, under oath and supported by proper proof, within six (6) months after the end of the twelve (12) month period covered by the claim. The provisions of § 67-1-1802 do not apply to refunds made pursuant to this section.

(d) In lieu of filing a claim for refund a dealer registered for sales and use tax may take a credit on its sales and use tax return for the tax that would be refundable under subsection (b) of this section. Any dealer that takes this credit on its sales and use tax return must file on an annual basis an information report with the commissioner. This information report shall be in a format approved by the commissioner and shall contain sufficient information for the commissioner's delegates to verify the validity of a credit taken under this section. This information report shall include:

- (1) Information showing that the item qualifies as a single article under § 67-6-702;
- (2) The amount of the Tennessee sales tax remitted on the single article;
- (3) The local jurisdiction to which the tax was paid;
- (4) If applicable, information regarding the vendor to whom the tax was paid; and
- (5) Such other information as necessary to determine the validity of the credit taken.

This information report shall be filed within sixty (60) days of the close of each calendar year in which a credit was taken on any sales and use tax return.

On motion, the amendment was adopted.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting Section 79 of the bill as amended and by substituting the following language:

SECTION 79. Sections 20, 64 and 70 shall take effect on January 1, 2006, the public welfare requiring it.

SECTION 80. The General Assembly finds and determines that the Streamlined Sales Tax Agreement is necessary to stop the loss of sales tax revenue due to the rapid growth of Internet sales, to level the playing field between local businesses and out-of-state businesses, and to negate undue burden on interstate commerce; and that this act is necessary in order for Tennessee to be in compliance with the Streamlined Sales Tax Agreement. Under the Streamlined Sales Tax Agreement, when at least ten (10) states comprising at least twenty percent (20%) of the total population, as determined by the 2000 federal census, of all states imposing a state sales tax have petitioned for membership and have been found to be in compliance with the requirements of the agreement, the agreement will become effective unless a specific effective date is otherwise given. Therefore, the provisions of this act shall become effective either on the effective date specified for that section or, if no effective date is listed for the section, then on the first day of the second quarter following the effective date of the Streamlined Sales Tax Agreement, the public welfare requiring it.

SECTION 81. No provision of this act is intended to nor shall it be construed so as to modify, amend or repeal any provisions of Tennessee Code Annotated, Section 67-6-510, the provisions of which shall be controlling with respect to the allowance of the credit for the used article taken in trade so that the tax levied by Chapter 6 of Title 67 shall continue to be paid only on the "net difference" as that term is used in paragraphs (a) and (b) of Tennessee Code Annotated, Section 67-6-510.

On motion, the amendment was adopted.

Senator Henry moved to amend as follows:

AMENDMENT NO. 4

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION _____. Tennessee Code Annotated, Title 67, Chapter 6, Part 5, is amended by adding the following section:

(a) For purposes of this section, a "bundled transaction" means a transaction consisting of distinct and identifiable telecommunications services which are sold for a single nonitemized price.

(b) In the case of a bundled transaction of telecommunications services, if the price is attributable to services that are taxable and services that are nontaxable, the portion of the price attributable to the nontaxable services shall be subject to tax unless the provider can reasonably identify such portion from its books and records kept in the regular course of business for purposes other than sales taxes.

(c) In the case of a bundled transaction of telecommunications services, if the price is attributable to services that are subject to tax at different rates, the total price shall be treated as attributable to the services subject to tax at the higher combined state and local tax rate unless the provider can reasonably identify the portion of the price attributable to the services subject to tax at the lower rate from its books and records kept in the regular course of business for purposes other than sales taxes.

(d) If the taxes that would have otherwise been collected on the distinct and identifiable telecommunications services would have been designated to different funds or purposes, such designation shall be based on the same allocation utilized in (b) or (c). However, if the total of the bundled transaction was subjected to tax or subjected to tax at the higher combined state and local rate a reasonable allocation method approved by the commissioner shall be made for designation of the taxes to the different funds or purposes.

(e) The provisions of this section shall be effective with respect to bills submitted by telecommunications service providers to their customers that are dated on or after January 1, 2004.

On motion, the amendment was adopted.

Senator Henry moved that Amendment No. 5 be withdrawn, which motion prevailed.

Senator Ford moved that Amendment No. 6 be withdrawn, which motion prevailed.

Senator Ford moved to amend as follows:

AMENDMENT NO. 7

AMEND, as amended by SA 629, by inserting the language "(calculated exclusive of any federal excise tax paid by the producer or purchaser on such fuel)" between the language "the purchase price" and "of aviation fuel" in subsection (a) from Section 67-4-2306 of the amendatory language of Section 75.

On motion, the amendment was adopted.

Senator Ford moved to amend as follows:

AMENDMENT NO. 9

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ Tennessee Code Annotated, Section 67-6-313(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) It is not the intention of this chapter to levy a tax upon articles of tangible personal property imported into this state or produced or manufactured in this state for export without any use in this state so long as title, risk of loss, or possession passed from the seller to the purchaser prior to importation.

On motion, the amendment was adopted.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 10

AMEND by deleting the amendatory Section 67-4-2306(a) in Section 75 of the bill as amended and by substituting instead the following language:

(a) There is levied a tax of four and one-half percent (4 ½%) on the purchase price of aviation fuel, except for fuel described in Section 67-6-349, used by common carriers that is actually used in the operation of airplane or aircraft motors.

On motion, the amendment was adopted.

Senator Clabough moved to amend as follows:

AMENDMENT NO. 11

AMEND by deleting the amendatory Section 67-4-2305(a) in Section 75 of the bill as amended and by substituting instead the following language:

(a) There is levied a tax at the rate of five and one-quarter percent (5 ¼%) on the purchase price of tangible personal property, excluding items listed in Sections 67-6-302, 67-6-321, and 67-6-313(j), sold and delivered to common carriers in this state for use outside this state.

On motion, the amendment was adopted.

Senator Kyle moved that Amendment No. 12 be withdrawn, which motion prevailed.

Senator Kyle moved to amend as follows:

AMENDMENT NO. 13

AMEND by deleting the following language from Section 80 of the bill as amended:

Therefore, the provisions of this act shall become effective either on the effective date specified for that section or, if no effective date is listed for the section, then on the first day of the second quarter following the effective date of the Streamlined Sales Tax Agreement, the public welfare requiring it.

and by substituting instead the following language:

Therefore, the provisions of this act shall become effective either on the effective date specified for that section or, if no effective date is listed for the section, then on the first day of the second quarter following the effective date of the Streamlined Sales Tax Agreement, the public welfare requiring it; provided, that in no event shall any provision of this act take effect prior to July 1, 2004, the public welfare requiring it.

Pursuant to Rule 39(3), Amendment No. 13 was adopted by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

Senator Clabough moved that **Senate Bill No. 899**, as amended, pass its third and final consideration.

Senator Cooper moved for the previous question on **Senate Bill No. 899**, as amended, which motion prevailed by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--32.

Thereupon, **Senate Bill No. 899**, as amended, passed its third and final consideration by the following vote:

Ayes 29
Noes 2
Present, not voting . . . 2

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

Senators voting no were: Beavers and Norris--2.

Senators present and not voting were: Crowe and Southerland--2.

A motion to reconsider was tabled.

MOTION

Senator Henry moved that Rule 83(1) be suspended for the purpose of allowing the Committee on Finance, Ways and Means to meet, which motion prevailed.

MOTION

Senator Miller moved that Rule 83(1) be suspended for the purpose of allowing the Committee on Environment, Conservation and Tourism to meet, which motion prevailed.

CALENDAR

House Joint Resolution No. 445 -- General Assembly, Statement of Intent or Position -- Urges Tennessee Supreme Court to promulgate rules allowing officers of small corporations, limited liability corporations and limited liability partnerships to represent such entities in General Sessions Court for small debt collection.

Senator Person moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the first resolving clause and by substituting instead the following:

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED THIRD GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that the General Assembly urges the Supreme Court to consider the appropriateness of the promulgation of rules that would allow an officer of a small corporation, limited liability corporation or limited liability partnership to represent the corporation, limited liability corporation or limited liability partnership in General Sessions Court for the purposes of debt recovery;

AND FURTHER AMEND by deleting the second and third resolving clauses in their entirety.

On motion, the amendment was adopted.

Senator Fowler moved that **House Joint Resoluton No. 445**, as amended, be concurred in, which motion prevailed by the following vote:

Ayes 29
Noes 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--29.

Senator voting no was: Haynes--1.

A motion to reconsider was tabled.

Senator Clabough moved that **Senate Bill No. 287** be moved three places down on the calendar for today, which motion prevailed.

Senate Bill No. 675 -- Taxes, Exemption -- Redefines "industrial machinery" for sales and use tax purposes to include certain research and development machinery; exempts such machinery from sales tax. Amends TCA Title 67.

On motion, Senate Bill No. 675 was made to conform with **House Bill No. 809**.

On motion, House Bill No. 809, on same subject, was substituted for Senate Bill No. 675.

Thereupon, **House Bill No. 809** passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 412 -- Mental Health and Developmental Disabilities, Dept. of -- Requires department to establish continuum of essential behavioral health services. Amends TCA Title 33.

On motion, Senate Bill No. 412 was made to conform with **House Bill No. 974**.

On motion, House Bill No. 974, on same subject, was substituted for Senate Bill No. 412.

Senator Ford moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 974** passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 602 -- Education -- Creates task force to establish guidelines for mold abatement in public schools. Amends TCA Title 49, Chapter 1, Part 2.

On motion, Senate Bill No. 602 was made to conform with **House Bill No. 891**.

On motion, House Bill No. 891, on same subject, was substituted for Senate Bill No. 602.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 891** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that Rule 37 be suspended for the purpose of placing **House Joint Resolution No. 274** on the calendar for today, which motion prevailed.

MOTION

Senator Crowe moved that the rules be suspended for the purpose of making and considering Consent Calendar No. 3 consisting of the following resolutions: **Senate Resolution No. 109; and House Joint Resolutions Nos. 19, 58, 59, 175, 262, 401, 417, 423, 651, 700, 714, 715, 716, 717, 718, 719, 720 and 508**, which motion prevailed.

CONSENT CALENDAR NO. 3

Senate Resolution No. 109 -- Memorials, Interns -- Michael Begley.

House Joint Resolution No. 19 -- General Assembly, Studies -- Creates special joint committee to study public school drop-out rates.

House Joint Resolution No. 58 -- General Assembly, Studies -- Creates special joint committee to study rural water supply, water resources and environment.

House Joint Resolution No. 59 -- General Assembly, Studies -- Creates special joint committee to study economic development.

House Joint Resolution No. 175 -- General Assembly, Directed Studies -- Creates special joint committee to study infant mortality due to premature births.

House Joint Resolution No. 262 -- Highway Signs -- Names bridge on S.R. 33 in New Tazewell "Lt. George S. Brooks Memorial Bridge".

House Joint Resolution No. 401 -- Highway Signs -- "Ronnie C. Presley Memorial Bridge" on U.S. 70 North Bypass in Lebanon.

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House Joint Resolution No. 417 -- Highway Signs -- "SFC Joseph D. Bailey Bridge" over Bartons Creek on U.S. Highway 70 North Bypass in Lebanon.

House Joint Resolution No. 423 -- General Assembly, Studies -- Creates special joint committee to study municipal courts.

House Joint Resolution No. 508 -- Memorials, Retirement -- Dr. Robert H. Kirk.

House Joint Resolution No. 651 -- Highway Signs -- Designates Highway 56 in DeKalb County "Ms. M.E. Marshall Highway".

House Joint Resolution No. 700 -- Memorials, Academic Achievement -- Abbey Mae Paisley, Co-Valedictorian, Lenoir City High School.

House Joint Resolution No. 714 -- Memorials, Interns -- Kevin William Teets, Jr.

House Joint Resolution No. 715 -- Memorials, Interns -- Matthew Walter Maxey.

House Joint Resolution No. 716 -- Memorials, Interns -- Carl Cullen Earnest.

House Joint Resolution No. 717 -- Memorials, Interns -- Nicholas Alexander Holton.

House Joint Resolution No. 718 -- Memorials, Interns -- Adonius Michelle Wright.

House Joint Resolution No. 719 -- Memorials, Sports -- Ripley High School Baseball Team, 2003 Class AA State Champions.

House Joint Resolution No. 720 -- Memorials, Professional Achievement -- Association of African-American Museums.

Senator Crowe moved that all Senate Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that the rules be suspended for the purpose of making and considering Local Bill Consent Calendar No. 2 consisting of the following bills: **Senate Bills Nos. 2039 and 2046**, which motion prevailed.

LOCAL BILL
CONSENT CALENDAR NO. 2

Senate Bill No. 2039 -- Wilson County -- Subject to local approval, enacts adequate facilities tax.

On motion, Senate Bill No. 2039 was made to conform with **House Bill No. 2122**.

On motion, House Bill No. 2122, on same subject, was substituted for Senate Bill No. 2039.

Senate Bill No. 2046 -- Centertown -- Subject to local approval, changes election date and renames governing body to be Board of Mayor and Aldermen. Amends Chapter 606 of the Private Acts of 1951.

On motion, Senate Bill No. 2046 was made to conform with **House Bill No. 2129**.

On motion, House Bill No. 2129, on same subject, was substituted for Senate Bill No. 2046.

Senator Crowe moved that all House Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

CALENDAR

Senator Clabough moved that **Senate Bill No. 287** be moved five places down on the calendar for today, which motion prevailed.

Senate Bill No. 1026 -- Sunset Laws -- Hamilton County community service agency, June 30, 2005. Amends TCA Title 4, Chapter 29 and Title 37, Chapter 5.

On motion, Senate Bill No. 1026 was made to conform with **House Bill No. 1550**.

On motion, House Bill No. 1550, on same subject, was substituted for Senate Bill No. 1026.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1550** passed its third and final consideration by the following vote:

Ayes 33
Noes 0

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Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 1033 -- Sunset Laws -- Knox County community service agency, June 30, 2005. Amends TCA Title 4, Chapter 29 and Title 37, Chapter 5.

On motion, Senate Bill No. 1033 was made to conform with **House Bill No. 1508**.

On motion, House Bill No. 1508, on same subject, was substituted for Senate Bill No. 1033.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1508** passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 1273 -- Special License Plates -- Authorizes Department of Safety to issue judiciary plates for motorcycles. Amends TCA Title 55, Chapter 4, Part 2.

On motion, Senate Bill No. 1273 was made to conform with **House Bill No. 874**.

On motion, House Bill No. 874, on same subject, was substituted for Senate Bill No. 1273.

Senator Williams moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 874** passed its third and final consideration by the following vote:

Ayes	32
Noes	1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

Senator voting no was: Herron--1.

A motion to reconsider was tabled.

Senate Bill No. 1412 -- State Government -- Makes various changes to improve efficiencies and revenues of various entities of state government. Amends TCA Title 4; Title 8; Title 9; Title 16; Title 17; Title 18; Title 37; Title 38; Title 39; Title 40; Title 41 and Title 67.

On motion, Senate Bill No. 1412 was made to conform with **House Bill No. 158**.

On motion, House Bill No. 158, on same subject, was substituted for Senate Bill No. 1412.

Senator Person moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 158** passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 1473 -- Sunset Laws -- Southeast community service agency, June 30, 2005. Amends TCA Title 4, Chapter 29 and Title 37, Chapter 5.

On motion, Senate Bill No. 1473 was made to conform with **House Bill No. 1531**.

On motion, House Bill No. 1531, on same subject, was substituted for Senate Bill No. 1473.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1531** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 1479 -- Sunset Laws -- Panel on health care facility penalties, June 30, 2009. Amends TCA Title 4, Chapter 29 and Title 68, Chapter 11.

On motion, Senate Bill No. 1479 was made to conform with **House Bill No. 1515**.

On motion, House Bill No. 1515, on same subject, was substituted for Senate Bill No. 1479.

Senator Harper moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 2 of the printed bill in its entirety and by substituting instead the following new language:

SECTION 2. Tennessee Code Annotated, Section 4-29-228(a), is amended by adding a new item thereto, as follows:

() Panel on health care facility penalties, created by § 68-11-818;

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1515**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 287 -- Marriage -- Clarifies and authorizes that former members of quarterly county courts and county commissions who were members on or before August 1, 1984, may solemnize marriage. Amends TCA Section 17-1-206 and Section 36-3-301.

On motion, Senate Bill No. 287 was made to conform with **House Bill No. 567**.

On motion, House Bill No. 567, on same subject, was substituted for Senate Bill No. 287.

Thereupon, **House Bill No. 567** passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senate Bill No. 1484 -- Administrative Procedure (UAPA) -- Extends agency rules scheduled to expire pursuant to provisions of UAPA.

On motion, Senate Bill No. 1484 was made to conform with **House Bill No. 1526**.

On motion, House Bill No. 1526, on same subject, was substituted for Senate Bill No. 1484.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Harper moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new language as an appropriate subdivision to subsection (c) of House Government Operations Committee Amendment No. 1:

Rule 1240-4-3-.10—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting subparts (ii) and (iii) of Part 2 of subparagraph (c) of paragraph (1), in their entireties.

Rule 1240-4-6-.10—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting subparts (ii) and (iii) of Part 2 of subparagraph (c) of paragraph (1), in their entireties.

Rule 1240-4-3-.10—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting subparagraph (f) of paragraph (4), in its entirety.

Rule 1240-4-6-.10—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting subparagraph (f) of paragraph (4), in its entirety.

Rule 1240-4-1-.07—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting parts (ii) and (iii) of Part 2 of subparagraph (c) of paragraph (1), in their entireties.

Rule 1240-4-4-.07—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting parts (ii) and (iii) of Part 2 of subparagraph (c) of paragraph (1), in their entireties.

Rule 1240-4-1-.07—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting subparagraph (f) of paragraph (4), in its entirety.

Rule 1240-4-4-.07—Transportation—Department of Human Services—of the Official Compilation of Rules and Regulations of the State of Tennessee—is amended by deleting subparagraph (f) of paragraph (4), in its entirety.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1526**, as amended, passed its third and final consideration by the following vote:

Ayes	29
Noes	0
Present, not voting . . .	1

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Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--29.

Senator present and not voting was: Southerland--1.

A motion to reconsider was tabled.

Senate Bill No. 1486 -- Sunset Laws -- East community service agency, June 30, 2005. Amends TCA Title 4, Chapter 29 and Title 37, Chapter 5.

On motion, Senate Bill No. 1486 was made to conform with **House Bill No. 1503**.

On motion, House Bill No. 1503, on same subject, was substituted for Senate Bill No. 1486.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1503** passed its third and final consideration by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 1488 -- Sunset Laws -- Deletes references to terminated governmental entities. Amends TCA Title 4, Chapter 29.

On motion, Senate Bill No. 1488 was made to conform with **House Bill No. 1512**.

On motion, House Bill No. 1512, on same subject, was substituted for Senate Bill No. 1488.

Senator Harper moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the following language:

SECTION _____. Tennessee Code Annotated, Section 4-29-104, is amended by adding a new subsection thereto, as follows:

(d)(1) Notwithstanding any provision of law to the contrary, if the evaluation committee created in § 4-29-103 does not conduct a public hearing regarding a governmental entity that is due to expire on June 30 of such year, by action of the General Assembly such governmental entity may be continued for one (1) year.

(2) A governmental entity may only receive one (1) extension pursuant to this subsection.

and by substituting instead the following:

SECTION ____ Tennessee Code Annotated, Section 4-29-104, is amended by adding a new subsection thereto, as follows:

(d) Notwithstanding the provisions of Section 4-29-115 or any other provision of law to the contrary, if the evaluation committee created in § 4-29-103 does not conduct a public hearing regarding a governmental entity that is due to terminate on June 30, 2003, then such entity shall be extended for two (2) years, or until the committee conducts the public hearing and the General Assembly acts to terminate, continue, reestablish or restructure the governmental entity, whichever occurs first. If such hearing and action by the General Assembly does not occur prior to June 30, 2005, then any entity continued pursuant to the provisions of this subsection is terminated and shall wind up its affairs pursuant to Section 4-29-112.

On motion, the amendment was adopted.

Senator Harper moved that Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1512**, as amended, passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senator Norris moved that **Senate Bill No. 1531** be placed at the heel of the calendar for today, which motion prevailed.

Senate Bill No. 1577 -- Taxes, Real Property -- Allocates portion of real estate transfer taxes for preservation of properties used as historic theaters or artistic endeavors. Amends TCA Title 67, Chapter 4, Part 4.

On motion, Senate Bill No. 1577 was made to conform with **House Bill No. 1229**.

On motion, House Bill No. 1229, on same subject, was substituted for Senate Bill No. 1577.

Senator Burchett moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-409(j)(2)(A), is amended by adding the following language at the end of the subdivision:

Such funds may also be used for the redevelopment, renovation and restoration of historic theaters owned by a governmental entity or a not-for-profit corporation.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

On motion, the amendment was adopted.

Senator Henry moved to amend as follows:

AMENDMENT NO. 4

AMEND by adding before the period at the end of the amendatory language in Section 1 of the bill, as amended, the following language:

and listed on the National Register of Historic Places

On motion, the amendment was adopted.

Senator Burchett moved to amend as follows:

AMENDMENT NO. 5

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-409(j)(2)(A), is amended by adding the following language at the end of the subdivision:

Such funds may also be used for the redevelopment, renovation and restoration of historic theaters owned by a governmental entity or a not-for-profit corporation or its controlled affiliate.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

Senator Burchett moved that **House Bill No. 1229**, as amended, be moved three places down on the calendar for today, which motion prevailed.

Senate Bill No. 1669 -- Sunset Laws -- Northeast community service agency, June 30, 2005. Amends TCA Title 4, Chapter 29 and Title 37, Chapter 5.

On motion, Senate Bill No. 1669 was made to conform with **House Bill No. 1516**.

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On motion, House Bill No. 1516, on same subject, was substituted for Senate Bill No. 1669.

Senator Harper moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1516** passed its third and final consideration by the following vote:

Ayes	32
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

Senator Trail moved that **Senate Bill No. 1671** be placed on the calendar in 2004, which motion prevailed.

Senate Bill No. 1861 -- Probation and Parole -- Allows certain private probation entities to contractually provide probation supervision services for felons. Amends TCA Title 40, Chapter 35, Part 3.

On motion, Senate Bill No. 1861 was made to conform with **House Bill No. 1985**.

On motion, House Bill No. 1985, on same subject, was substituted for Senate Bill No. 1861.

Senator Ford moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1985** passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

Senator Burchett moved that **House Bill No. 1229**, as amended, be moved two places down on the calendar for today, which motion prevailed.

Senate Bill No. 1874 -- Taxes, Sales -- Reduces sales tax on food from 6 percent to 3 percent effective January 1, 2004. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71.

Senator Henry moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-4-1004, is amended by repealing subsection (c) in its entirety and by relettering the remaining subsection accordingly.

SECTION 2. Tennessee Code Annotated, Section 67-4-1005, is amended by repealing subsection (b) in its entirety.

SECTION 3. Tennessee Code Annotated, Section 67-4-709, is amended by adding the following as a new subsection:

() Notwithstanding language of Section 14(i) of Chapter 856 of the Public Acts of 2002, the business tax rate changes and other provisions contained in Section 9 of Chapter 856 of the Public Acts of 2002 shall apply only to amounts derived from transactions occurring on or after September 1, 2002.

SECTION 4. Tennessee Code Annotated, Section 4-18-103(f), is amended by deleting the words "the Internal Revenue Code" and substituting instead the words "any statute applicable to any tax administered by the Department of Revenue".

SECTION 5. Tennessee Code Annotated, Section 67-3-1501, is amended by deleting the word, punctuation and number "three (3)" in the second sentence of subsection (b) and substituting instead the word, punctuation and number "four (4)".

SECTION 6. Tennessee Code Annotated, Title 67, Chapter 6, Part 3, is amended by adding the following as a new section:

(a) A credit shall be granted in the manner provided below for the amount of the sales tax due on tobacco buydown payments included in the sales price of tobacco sold at retail.

(b) The credit shall apply such that sales tax is owed on the sales price of the tobacco less the tobacco buydown payment associated with such sale.

(c) For purposes of this section the following definitions apply:

(1) "tobacco buydown payment" means the amount due to the retailer pursuant to a tobacco buydown agreement; and

(2) "tobacco buydown agreement" means an agreement whereby an amount whether paid in money, credit, or otherwise, is received by a retailer from a manufacturer or wholesaler based upon the quantity and unit price of tobacco sold at retail that requires the retailer to reduce the sales price of the product to the purchaser without the use of a manufacturer's coupon or redemption certificate.

SECTION 7. Tennessee Code Annotated, Section 67-4-1708, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) All persons who were licensed or registered to engage in a vocation, profession, business, or occupation subject to this tax on June 1, 2003, but who were previously exempt from the tax because of the operation of Section 7(b) of Chapter 856 of the Public Acts of 2002, are hereby declared to be liable for the tax imposed by this part, which shall be due and payable on June 30, 2003.

SECTION 8. Tennessee Code Annotated, Section 67-4-1709, is amended by deleting the language of that section in its entirety and substituting instead the following:

(a) Each individual licensed or registered to engage in a vocation, profession, business, or occupation listed in § 67-4-1702(a) shall be liable for the tax. Any employer, including any governmental entity, may choose to remit the tax imposed by this part on behalf of persons subject to the tax who are employed by such employer.

SECTION 9. Tennessee Code Annotated, Section 67-1-1438, is amended by adding the following sentence at the end of subsection (b):

No claim, cause of action or other proceeding to challenge an assessment or seek a refund shall arise based on the department's procedures for signing or recording the liability of the taxpayer in the office of the department under this section, regulations promulgated thereunder, or bulletins related thereto.

SECTION 10. Tennessee Code Annotated, Section 67-4-2004(2)(A)(iii), is amended by adding the following as a new subdivision immediately after the existing subdivision (f) and relettering the remaining subdivisions accordingly:

"(g) The holding of participation loans in which more than one (1) lender is a creditor to a common borrower."

SECTION 11. Tennessee Code Annotated, Section 67-4-2105, is amended by deleting the words and punctuation "except for a financial institution included in a unitary group of financial institutions otherwise subject franchise and excise taxes," immediately after the words and punctuation "Notwithstanding any other provision to the contrary," in subsection (f).

SECTION 12. Tennessee Code Annotated, Section 67-4-2004(8), is amended by deleting the language in subdivision (8) in its entirety and by replacing it with the following new language:

"Financial institution" means a holding company, any regulated financial corporation, a subsidiary of a holding company or a regulated financial corporation, an investment entity that is indirectly more than 50% owned by a holding company or a regulated financial corporation, or any other person that is carrying on the business of a financial institution. However, "financial institution" does not include insurance companies subject to tax under §§ 56-4-201 through 56-4-214;

SECTION 13. Tennessee Code Annotated, Section 67-4-2004, is amended by adding the following as a new subdivision immediately after the existing subdivision (12) and renumbering the remaining subdivisions accordingly:

"Investment entity" means any person that receives more than 50% of its gross income from investment securities and from the business of a financial institution;

SECTION 14. Tennessee Code Annotated, Section 67-4-2004, is amended by adding the following as a new subdivision immediately after the existing subdivision (13) and renumbering the remaining subdivisions accordingly:

"Investment securities" means for purposes of this section any note, United States treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate debt securities, participations in securities backed by mortgages held by the United States or state government agencies, loan-backed securities, bonds, debenture, evidence of indebtedness, and other similar debt investments;

SECTION 15. If any provision of this act or the application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared severable.

SECTION 16. (a) Section 6 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all taxes assessed on or after January 1, 2002.

(b) Sections 7 and 8 of this act shall take effect upon becoming a law, the public welfare requiring it. Section 7 is repealed effective September 1, 2003.

(c) Section 9 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all currently pending or future suits except for those currently pending suits in which a challenge to the assessment based on the department's recording procedures was specifically alleged in either the plaintiff's complaint, interrogatories, requests for production of documents, or requests for admissions prior to May 1, 2003.

(d) Sections 10 through 14 shall take effect upon becoming a law, the public welfare requiring it, and shall apply to the period beginning January 1, 2003.

(e) All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 1874**, as amended, passed its third and final consideration by the following vote:

Ayes 33
Noes 0

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Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senate Bill No. 1899 -- Insurance Companies, Agents, Brokers, Policies -- Requires insurers to reimburse patients for up to two medication counseling sessions with pharmacists. Amends TCA Title 56.

On motion, Senate Bill No. 1899 was made to conform with **House Bill No. 1958**.

On motion, House Bill No. 1958, on same subject, was substituted for Senate Bill No. 1899.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting the word "shall" each time it appears in the printed bill and by substituting instead the word "may".

On motion, the amendment was adopted.

Senator Dixon moved that Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1958**, as amended, passed its third and final consideration by the following vote:

Ayes	33
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

FURTHER ACTION ON HOUSE BILL NO. 1229, AS AMENDED

Senator Burchett moved that Amendment No. 5 be withdrawn, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 6

AMEND by adding the language "or its controlled affiliate" after the word "corporation".

Pursuant to Rule 39(3), Amendment No. 6 was adopted by the following vote:

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Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

Thereupon, **House Bill No. 1229**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

Senate Bill No. 1971 -- Welfare -- Increases from five to six number of members needed for quorum of child care agency licensing board; eliminates requirement for comptroller to perform audit on impact of Family First Act. Amends Tennessee Code Annotated, Title 3, Chapter 15; Title 33; Title 56; Title 68 and Title 71.

On motion, Senate Bill No. 1971 was made to conform with **House Bill No. 2019**.

On motion, House Bill No. 2019, on same subject, was substituted for Senate Bill No. 1971.

Senator Ford moved that Amendment No. 1 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 2019** passed its third and final consideration by the following vote:

Ayes 30
Noes 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

Senator voting no was: Clabough--1.

A motion to reconsider was tabled.

House Bill No. 1256 -- Public Contracts -- Directs comptroller of treasury to conduct study of procurement of information technology commodity items and services. Amends TCA Title 4 and Title 12.

Senator Kyle moved that Amendment No. 4 be placed before all other amendments, which motion prevailed.

AMENDMENT NO. 4

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 12-4-109(a)(1), is amended by adding the following new items:

(G)(1) All requests, in accordance with rules authorized by this subdivision (a)(1), to procure service by negotiation with only one service provider, hereinafter referred to as a "non-competitive contract", shall be contemporaneously filed with the fiscal review committee of the General Assembly and the Commissioner of Finance and Administration. Such requests shall document the following:

(i) Description of service to be acquired;

(ii) Explanation of the need for or requirement placed on the procuring agency to acquire the service;

(iii) Name and address of the proposed contractor's principal owner(s);

(iv) Evidence that the proposed contractor has experience in providing the same or similar service and evidence of the length of time the contractor has provided the same or similar service;

(v) Explanation of whether the service was ever bought by the procuring agency in the past, and if so, what method was used to acquire it and who was the contractor;

(vi) Description of procuring agency efforts to use existing state employees and resources or, in the alternative, to identify reasonable, competitive, procurement alternatives (rather than to use non-competitive negotiation); and

(vii) Justification of why the state should acquire the service through non-competitive negotiation.

(2) The provisions of subdivision (G)(1), relative to filing requests with the fiscal review committee, shall only apply to proposed non-competitive contracts with a term of more than one (1) year or which are renewable by either party that would extend the contract beyond twelve (12) months and which have a cumulative value, including all possible renewals, of two hundred fifty thousand dollars (\$250,000) or more. The fiscal review committee shall have fifteen (15) days from receipt of the request to comment on the proposed contract. After such fifteen-day period, any such contract authorized by the commissioner may be executed.

(3) All other requests to negotiate non-competitive contracts shall be reviewed by the fiscal review committee after approval by the Commissioner of Finance and Administration. With respect to such requests, the fiscal review committee shall be provided the same information to be submitted in accordance with subdivision (G)(1).

(H) All requests, approved in accordance with rules authorized by this subdivision (a)(1), to permit an exception to said rules shall be filed with the fiscal review committee of the General Assembly.

(I) The Department of Finance and Administration, office of contracts review shall file a personal, professional, and consultant service contract report quarterly with the fiscal review committee of the General Assembly. Said report shall list contracts approved in accordance with rules authorized by this subdivision (a)(1) during the prior quarter and detail whether or not each contract procurement was competitive.

SECTION 2. Tennessee Code Annotated, Section 12-4-119, is amended by adding the following new subsection:

(e) Authorization of the Commissioner of Finance and Administration permitting a limitation of liability shall be in writing and shall be filed with the fiscal review committee of the General Assembly.

SECTION 3. This act shall take effect July 1, 2003, the public welfare requiring it.

Senator Kyle moved that **House Bill No. 1256** be moved five places down on the calendar for today, which motion prevailed.

House Bill No. 1895 -- Equalization Board -- Authorizes board to assess actual costs of hearing or processing appeal against any appellant not determined to be indigent. Amends Tennessee Code Annotated, Section 67-5-1501.

Senator Henry moved that Amendment No. 7 be considered first, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 7

AMEND by substituting the word "shall" for the word "may" and by substituting the word "non-prevailing party" for the word "appellant" in the amendatory language of Section 1.

AND FURTHER AMEND by adding the following at the end of the last sentence of the amendatory language of Section 1:

No processing fees or costs in excess of one dollar (\$1) per parcel shall be assessed for electronically filed appeals until such time as the actual appeal forms are filed. No hearing costs shall be assessed for any appeal which has been withdrawn or for which the parties have agreed to settlement of the appeal prior to a hearing.

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AND FURTHER AMEND by deleting the following language from Section 1 of the printed bill as amended:

The board shall provide for refund of all or part of the assessed costs to the extent the appellant prevails in the appeal.

and by substituting instead the following:

The board rules shall provide for a total refund of hearing costs if the ordered reduction is one-half or more of the appellant's claim. Otherwise, the refund of hearing costs shall be proportionate to the relief granted.

On motion, the amendment was adopted.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 3 be withdrawn, which motion prevailed.

Senator Ford moved that Amendment No. 4 be withdrawn, which motion prevailed.

Senator Ford moved that Amendment No. 5 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 6 be withdrawn, which motion prevailed.

Senator Henry moved to amend as follows:

AMENDMENT NO. 8

AMEND by adding the following new language to the end of the amendatory language of Section 1:

Persons having attained sixty-five (65) years of age or older shall not be charged fees and costs on the appeal of their primary residence if the appraised value is one hundred fifty thousand dollars (\$150,000) or less.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1895**, as amended, passed its third and final consideration by the following vote:

Ayes	30
Noes	0
Present, not voting . . .	1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Gabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

Senator present and not voting was: McNally--1.

A motion to reconsider was tabled.

NOTICE

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return House Bill No. 1286, for further consideration.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 579, amended, and concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 518, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 497, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 951, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

SENATE
MESSAGE CALENDAR #2

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Thursday, May 29, 2003: **House Bill No. 1286**; **Senate Joint Resolution No. 579**; and **Senate Bills Nos. 518, 497 and 951**.

MESSAGE CALENDAR NO. 2

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1286 -- Boards and Commissions -- Clarifies that health related boards may provide assistance to impaired health practitioners through agreements with or grants to statewide, nonprofit professional associations or their affiliated foundations, but such grants do not deem recipient programs to be state programs. Amends TCA Section 63-1-136.

Senator Crutchfield moved to lift from the table a motion to reconsider on **House Bill No. 1286**, which motion prevailed.

Senator Crutchfield moved that the Senate reconsider its action in passing **House Bill No. 1286**, which motion prevailed.

Senator Crutchfield moved that the Senate reconsider its action in adopting Amendment No. 2 to **House Bill No. 1286**, which motion prevailed.

Senator Crutchfield moved to amend as follows:

AMENDMENT NO. 1 TO AMENDMENT NO. 2

AMEND by deleting the existing language of Amendment No. 2 in its entirety and substituting instead the following language:

SECTION ____. Tennessee Code Annotated, Section 63-1-136, is amended by adding the following new section:

(e) If a regulatory board, commission or agency attached to the division of health related boards determines that an association or its affiliated foundation is not providing adequate services under this section, then the board, commission or agency may contract with another nonprofit organization in order to assist impaired professionals.

(f) Organizations that directly provide alcohol and drug treatment services or behavioral health services on an inpatient or outpatient basis for remuneration shall be prohibited from contracting with such board, commission or agency to provide a professional assistance program.

On motion, the amendment was adopted.

Senator Crutchfield moved to amend as follows:

AMENDMENT NO. 2

AMEND by adding the following new section immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION ____ . Tennessee Code Annotated, Section 63-1-136, is amended by adding the following as a new subsection:

(e) If a regulatory board, agency or commission attached to the division of health related boards determines that an association is not providing adequate services under this section, then the board, commission or agency may contract with another organization in order to assist impaired professionals.

On motion, Amendment No. 2, as amended, was adopted.

Thereupon, **House Bill No. 1286**, as amended, passed its third and final consideration by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

SENATE JOINT RESOLUTION ON HOUSE AMENDMENT

Senate Joint Resolution No. 579 -- General Assembly, Studies -- Creates special joint committee to study communications security.

HOUSE AMENDMENT NO. 1

AMEND by deleting the following language:

BE IT FURTHER RESOLVED, that the committee shall consist of three (3) members of the Judiciary Committee of the House of Representatives, to be recommended by the Chair of the Judiciary Committee and appointed by the Speaker of the House of Representatives; and three (3) members of the Judiciary Committee of the Senate, to be recommended by the Chair of the Judiciary Committee and appointed by the Speaker of the Senate.

and by substituting instead the following language:

BE IT FURTHER RESOLVED, that the committee shall consist of five (5) members of the House of Representatives, three (3) members from the Judiciary Committee to be recommended by the Chair of the Judiciary Committee and appointed by the Speaker of the House of Representatives and two (2) members from the Commerce Committee to be recommended by the Chair of the Commerce Committee and appointed by the Speaker of

the House of Representatives; and five (5) members of the Senate, three (3) members from the Judiciary Committee to be recommended by the Chair of the Judiciary Committee and appointed by the Speaker of the Senate and two (2) members from the Commerce, Labor and Agriculture Committee to be recommended by the Chair of the Commerce, Labor and Agriculture Committee and appointed by the Speaker of the Senate.

Senator Person moved that the Senate concur in House Amendment No. 1 to **Senate Joint Resolution No. 579**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 518 -- Child Custody and Support -- Limits retroactive orders for child support in paternity actions to two years preceding commencement of paternity action unless order of support previously entered. Amends TCA Title 36, Chapter 2, Part 3 and Title 36, Chapter 5.

HOUSE AMENDMENT NO. 1

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-2-311(a)(11), is amended by deleting that subdivision in its entirety and substituting instead the following:

36-2-311. (a)(11)(A) Determination of child support pursuant to Chapter 5 of this title. When making retroactive support awards pursuant to the child support guidelines established pursuant to this subsection, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the child's birth:

(i) the extent to which the father did not know, and could not have known, of the existence of the child, the birth of the child, his possible parentage of the child or the location of the child;

(ii) the extent to which the mother intentionally, and without good cause, failed or refused to notify the father of the existence of the child, the birth of the child, the father's possible parentage of the child or the location of the child; and

(iii) the attempts, if any, by the child's mother or caretaker to notify the father of the mother's pregnancy, or the existence of the child, the father's possible parentage or the location of the child.

(B) In cases in which the presumption of the application of the guidelines is rebutted by clear and convincing evidence, the court shall deviate from the child support guidelines to reduce the mother's or caretaker's share of the retroactive support award. The court must make a written finding that application and guidelines would be unjust or inappropriate in order to provide for the best interests of the child or the equity between the parties.

(C) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) the father has a demonstrated history of violence or domestic violence toward the mother, the child's caretaker or the child;

(ii) the child is the product of rape or incest of the mother by the father of the child;

(iii) the mother or caretaker of the child, or the child has a reasonable apprehension of harm from the father or those acting on his behalf toward the mother, the child's caretaker or the child; or

(iv) the father or those acting on his behalf, has abused or neglected the child.

(D) Nothing in this subdivision shall limit the right of the State of Tennessee to recover from the father expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child where appropriate.

(E) Any amounts of retroactive support ordered that have been assigned to the State of Tennessee pursuant to Section 71-3-124 shall be subject to the child support distribution requirements of 42 U.S.C. 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

SECTION 2. Tennessee Code Annotated, Section 36-5-101(e)(1), is amended by adding the following as new items to that section:

(C) When making retroactive support awards pursuant to the child support guidelines established pursuant to this subsection, in cases where the parents of the minor child are separated or divorced, but where the court has not entered an order of child support, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the parents' separation or divorce:

(i) whether the remaining spouse knew or could have known of the location of the child or children who had been removed from the marital home by the abandoning spouse; or

(ii) whether the abandoning spouse, or other caretaker of the child, intentionally, and without good cause, failed or refused to notify the remaining

spouse of the location of the child following removal of the child from the marital home by the abandoning spouse; and

(iii) the attempts, if any, by the abandoning spouse, or other caretaker of the child, to notify the remaining spouse of the location of the child following removal of the child from the marital home by the abandoning spouse.

(D) In cases in which the presumption of the application of the guidelines is rebutted by clear and convincing evidence, the court shall deviate from the child support guidelines to reduce the mother's, caretaker's, or abandoning spouse's share of the retroactive support award.

(E) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) the remaining spouse has a demonstrated history of violence or domestic violence toward the abandoning spouse, the child's caretaker or the child;

(ii) the child is the product of rape or incest of the mother by the father of the child;

(iii) the abandoning spouse has a reasonable apprehension of harm from the remaining spouse or those acting on the remaining spouse's behalf toward the abandoning spouse or the child; or

(iv) the remaining spouse, or those acting on his behalf, has abused or neglected the child.

(F) In making any deviations from awarding child and medical support retroactively to the separation or divorce of the parties, the court shall make written findings of fact and conclusions of law to support the basis for the deviation, and shall include in the order the total amount of retroactive child and medical support that would have been paid retroactively to the separation or divorce of the parties, had a deviation not been made by the court.

(G) Nothing in this subdivision shall limit the right of the State of Tennessee to recover from the father or the remaining spouse expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child where appropriate.

(H) Any amounts of retroactive support ordered that have been assigned to the State of Tennessee pursuant to Section 71-3-124 shall be subject to the child support distribution requirements of 42 U.S.C. 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of

the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect on July 1, 2003, the public welfare requiring it.

Senator Jackson moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 518**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 497 -- Child Custody and Support -- Sets limits on guidelines for establishing child support awards. Amends TCA Title 36, Chapter 5.

HOUSE AMENDMENT NO. 1

AMEND by deleting all of the language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-5-101(e), is amended by adding the following as a new subdivision:

(4)(A) In addition to any other subtractions, calculations of net income under the guidelines shall take into consideration the support of any other children the obligor is legally responsible to provide. Children of the obligor who are not included in a decree of child support, but for whom the obligor is legally responsible to provide support and is supporting, shall be considered for the purposes of reducing the obligor's net income or in calculating the guideline amount. Such children may be considered by the court as a reason for deviation from the guidelines.

SECTION 2. This act shall take effect July 1, 2003, the public welfare requiring it.

Senator Ford moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 497**, which motion prevailed by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Jackson, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 951 -- Taxes, Ad Valorem -- Permits taxpayer's duly authorized agent to make complaint before county board of equalization in Shelby County. Amends TCA Title 67.

HOUSE AMENDMENT NO. 1

AMEND by deleting Section 1 of the printed bill and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-5-1409, is amended by adding the following as a new, appropriately designated subsection:

(c) In any county having a population greater than eight hundred ninety thousand (890,000) according to the 2000 federal census or any subsequent census, when meeting in special session, the board may act only on an assessment for which an active and timely filed appeal is pending.

Senator Ford moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 951**, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

HOUSE AMENDMENT NO. 2

AMEND by inserting the following language in subsection (c) of the amendatory language of Section 1 between the language "special session," and "the board":

except as otherwise determined by a two-thirds (2/3) vote of the county legislative body,

Senator Ford moved that the Senate concur in House Amendment No. 2 to **Senate Bill No. 951**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

HOUSE BILL ON SENATE AMENDMENT

Senator Dixon moved that the rules be suspended for the immediate consideration of **House Bill No. 1958**, as amended, out of order, which motion prevailed.

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House Bill No. 1958 -- Insurance Companies, Agents, Brokers, Policies -- Requires insurers to reimburse patients for up to two medication counseling sessions with pharmacists, as amended.

Senator Dixon moved to lift from the table a motion to reconsider on **House Bill No. 1958**, as amended, which motion prevailed.

Senator Dixon moved that the Senate reconsider its action in passing **House Bill No. 1958**, as amended, which motion prevailed.

Senator Dixon moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 1958**, which motion prevailed.

Senator Dixon moved that Amendment No. 1 to **House Bill No. 1958** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1958** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Gabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

CALENDAR

Senate Bill No. 248 -- Hospitals and Health Care Facilities -- Increases nursing home bed tax from \$2,225 to \$2,600 per licensed bed per year and extends expiration date of tax to June 30, 2005. Amends TCA Title 68, Chapter 11, Part 2.

On motion, Senate Bill No. 248 was made to conform with **House Bill No. 1259**.

On motion, House Bill No. 1259, on same subject, was substituted for Senate Bill No. 248.

Senator Henry moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Henry moved that Amendment No. 2 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1259** passed its third and final consideration by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson,

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Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

House Joint Resolution No. 75 -- General Assembly, Studies -- Creates special joint study committee to review Tennessee Board of Education rules and regulations regarding intellectually gifted students.

House Joint Resolution No. 75 was concurred in by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senator Henry moved that **House Bill No. 1283** be rereferred to the Committee on Commerce, Labor and Agriculture, which motion prevailed.

House Bill No. 1803 -- Campaigns and Campaign Finance -- Removes limitation on candidate contributing personal funds to such candidate's own election. Amends TCA Title 2, Chapter 10, Part 3.

Senator Fowler moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Haynes moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Haynes moved that **House Bill No. 1803** be placed at the heel of the calendar for today, which motion prevailed

FURTHER ACTION ON HOUSE BILL NO. 1256, AS AMENDED

Thereupon, on motion, Amendment No. 4 was adopted.

Senator Cohen moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Kurita moved that Amendment No. 2 be withdrawn, which motion prevailed.

Senator Fowler moved that Amendment No. 3 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1256**, as amended, passed its third and final consideration by the following vote:

Ayes 30
Noes 0

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Senators voting aye were: Atchley, Beavers, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

House Bill No. 1986 -- Contractors -- Removes exclusion from definition of contractor those persons constructing residences on private property for resale in certain counties. Amends TCA Section 62-6-102(3)(D)(I).

Senator Kilby moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the language "two hundred fifty thousand dollars (\$250,000)" from subdivision (i)(a)(1), as amended, and by substituting instead the language "three hundred fifty thousand dollars (\$350,000)".

On motion, the amendment was adopted.

Senator Kilby moved that Amendment No. 3 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1986**, as amended, passed its third and final consideration by the following vote:

Ayes	31
Noes	0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Person as Speaker pro tempore.

Senate Bill No. 2049 -- Bradley County -- Subject to local approval, increases hotel/motel tax from 4 percent to 5 percent and revises allocation formula. Amends Chapter 19 of the Private Acts of 1991.

Senator Miller moved to amend as follows:

AMENDMENT NO. 1

AMEND by deleting Section 2 in its entirety, and by substituting instead the following language:

SECTION 2. Section 3 of Chapter 19 of the Private Acts of 1991, and any other acts amendatory thereto, is amended by deleting the section in its entirety, and by substituting instead the following language:

SECTION 3. The proceeds received by the county from the tax shall be retained by the county and allocated as follows:

- (1) Twenty percent (20%) for the county general fund;
- (2) Twenty-seven and one-half percent (27.5%) for the support of tourism in the county;
- (3) Twenty-seven and one-half percent (27.5%) for the support of industrial recruitment in the county; and
- (4) Twenty-five percent (25%) for the support of Tri-State Exhibition Center.

On motion, the amendment was adopted.

Thereupon, **Senate Bill No. 2049**, as amended, passed its third and final consideration by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Herron, Jackson, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Trail and Williams--29.

A motion to reconsider was tabled.

Senator Crutchfield moved that **House Joint Resolution No. 274** be placed at the heel of the calendar for today, which motion prevailed.

Senator Haynes moved that **House Bill No. 1803** be placed at the heel of the calendar for today, which motion prevailed.

MOTION

Senator Cohen moved that the Conference Committee Report on **Senate Bill No. 1/House Bill No. 1** be placed at the heel of the message calendar for today, which motion prevailed.

NOTICE

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

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MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1512. The House nonconcurred in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1526. The House nonconcurred in Senate Amendment No. 2.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, House Bill No. 1023.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 899, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1028, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

RECESS

Senator Crutchfield moved the Senate stand in recess, which motion prevailed.

CALL TO ORDER

The Senate was called to order by Mr. Speaker Wilder.

ROLL CALL

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

STANDING COMMITTEE REPORTS

FINANCE, WAYS AND MEANS

MR. SPEAKER: Your Committee on Finance, Ways and Means begs leave to report that we have carefully considered and recommend for passage: House Joint Resolution No. 597.

HENRY, Chairperson
May 29, 2003

The Speaker announced that he had referred House Joint Resolution No. 597 to Committee on Calendar.

ENVIRONMENT, CONSERVATION AND TOURISM

MR. SPEAKER: Your Committee on Environment, Conservation and Tourism begs leave to report that we have carefully considered and recommend for passage: House Joint Resolution No. 542.

MILLER, Chairperson
May 29, 2003

The Speaker announced that he had referred House Joint Resolution No. 542 to Committee on Calendar.

TRANSPORTATION

MR. SPEAKER: Your Committee on Transportation begs leave to report that we have carefully considered and recommend for passage: House Joint Resolutions Nos. 262, 401, 417 and 651.

WILLIAMS, Chairperson
May 29, 2003

The Speaker announced that he had referred House Joint Resolutions Nos. 262, 401, 417 and 651 to Committee on Calendar.

NOTICE

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 952, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 618, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return Senate Bill No. 518. The House refused to recede from its action in adopting House Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return Senate Bill No. 1472. The House refused to recede from its action in adopting House Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE CALENDAR

FURTHER ACTION ON SENATE BILL NO. 1648, AS AMENDED

Senator Harper moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 1648**, which motion prevailed by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1344 -- Arrests -- Restates requirements for issuance of arrest warrant; provides for issuance of criminal summons, in lieu of arrest warrant, if affiant is law enforcement officer. Amends TCA Title 40, Chapter 6, Part 2.

HOUSE AMENDMENT NO. 2

AMEND by deleting the final sentence of Section 40-6-205 of the amendatory language of Section 2 as amended and substituting instead the following:

Provided, further, if, after examination of the affiant and the affidavit of complaint, the magistrate reasonably believes that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate threat of imminent harm to a victim as defined in § 36-3-601(8), the magistrate may issue a warrant of arrest notwithstanding the fact that the affiant is not a law enforcement officer, or, in the case of multiple-affiants, that no one of the affiants is a law enforcement officer.

AND FURTHER AMEND by deleting the final sentence of subsection (a) of Section 40-6-215 of the amendatory language of Section 5 as amended and substituting instead the following:

Provided, however, if, after examination of the affiant and the affidavit of complaint, the magistrate, judge or clerk reasonably believes that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate threat of imminent harm to a victim as defined in § 36-3-601(8), the magistrate, judge or clerk may issue a warrant of arrest notwithstanding the fact that the affiant is not a law enforcement officer, or, in the case of multiple-affiants, that no one of the affiants is a law enforcement officer.

Senator Person moved that the Senate nonconcur in House Amendment No. 2 to **Senate Bill No. 1344**, which motion prevailed.

HOUSE AMENDMENT NO. 3

AMEND by deleting the following directory language from House Judiciary Committee Amendment No. 2 (HA0414) in its entirety:

AMEND by deleting the final sentence of Section 40-6-205 of the amendatory language of Section 2 as amended and substituting instead the following:

and by substituting instead the following directory language:

AMEND by deleting the final sentence of Section 40-6-205 of the amendatory language of Section 3 as amended and substituting instead the following:

Senator Person moved that the Senate nonconcur in House Amendment No. 3 to **Senate Bill No. 1344**, which motion prevailed.

Senator Clabough moved that **House Bill No. 466** be moved three places down on the message calendar for today, which motion prevailed.

MOTION

Senator Miller moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 478**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 478 -- Naming and Designating -- Grants any Tennessee community raising American flags in specific program to honor veterans of United States Armed Forces designation "Flag City USA".

On motion of Senator Miller, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 478** was adopted by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

CALENDAR

FURTHER ACTION ON HOUSE BILL NO. 1803

Senator Fowler moved that Amendment No. 3 be withdrawn, which motion prevailed.

Senator Fowler moved that Amendment No. 4 be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 1803** passed its third and final consideration by the following vote:

Ayes 25
Noes 6

Senators voting aye were: Atchley, Beavers, Burks, Clabough, Cohen, Cooper, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Ramsey, Trail, Williams and Mr. Speaker Wilder--25.

Senators voting no were: Bryson, Burchett, Crowe, McNally, Norris and Person--6.

A motion to reconsider was tabled.

House Joint Resolution No. 274 -- General Assembly, Directed Studies -- Creates special joint committee to study present alignment and organization of trial court judicial districts, allocation of judges, judicial personnel, district attorneys general and district public defenders, and to

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determine if there exists need to change present system to make it more efficient and responsive to public.

Senator Dixon moved that Amendment No. 1 be withdrawn, which motion prevailed.

Senator Dixon moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting from the second resolving clause, as amended, the number "sixteen (16)" and substituting instead the number "seventeen (17)".

AND FURTHER AMEND by adding the following new, appropriately numbered item to the second resolving clause:

() One (1) practicing attorney to be appointed by the Ben F. Jones Bar Association.

On motion, the amendment was adopted.

Thereupon, **House Joint Resolution No. 274**, as amended, was concurred in by the following vote:

Ayes	30
Noes	0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MESSAGE CALENDAR

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 466 -- Alcoholic Beverages -- Authorizes expungement of conviction for underage consumption of intoxicating liquors and beer under certain circumstances. Amends TCA Title 1; Title 39; Title 40 and Title 57.

Senator Clabough moved to lift from the table a motion to reconsider on **House Bill No. 466**, which motion prevailed.

Senator Clabough moved that the Senate reconsider its action in passing **House Bill No. 466**, which motion prevailed.

Senator Clabough moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 466**, which motion prevailed.

Senator Person moved that Amendment No. 1 to **House Bill No. 466** be withdrawn, which motion prevailed.

Thereupon, **House Bill No. 466** passed its third and final consideration by the following vote:

Ayes 24
Noes 6

Senators voting aye were: Atchley, Bryson, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketrone, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Trail and Mr. Speaker Wilder--24.

Senators voting no were: Beavers, Burchett, Burks, Kilby, Southerland and Williams--6.

A motion to reconsider was tabled.

**REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT ON
SENATE BILL NO. 1/HOUSE BILL NO. 1**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 1 (Senate Bill No. 1) has met and recommends that all House and Senate amendments be deleted.

The Committee further recommends that the following amendment be adopted:

AMEND by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. This act shall be known and may be cited as the "Tennessee Education Lottery Implementation Law".

SECTION 2. Tennessee Code Annotated, Title 4, is amended by adding the following language as a new, appropriately designated chapter:

Section 4-51-101. (a) There is hereby created a corporation which shall be known as the "Tennessee Education Lottery Corporation".

(b) The corporation shall be registered with the secretary of state and shall be subject to the corporate laws of the State of Tennessee.

(c) The corporation shall be a body, politic and corporate, and a quasi-public instrumentality, and not a state agency or department, which shall be deemed to be acting in all respects for the benefit of the people of the state through the operation of a state lottery and in the performance of other essential public functions entrusted to it.

(d) The corporation shall have perpetual succession and shall adopt, amend and repeal bylaws and regulations for the conduct of its affairs.

(e) The corporation shall strive to maximize net lottery proceeds.

(f) Venue for the corporation is Davidson County.

Section 4-51-102. As used in this chapter, unless the context otherwise requires:

(1) "Board" means the board of directors of the Tennessee education lottery corporation;

(2) "Chief executive officer" means the chief executive officer of the Tennessee education lottery corporation;

(3) "Corporation" means the Tennessee education lottery corporation;

(4) "Director" means a member of the board of directors of the Tennessee education lottery corporation;

(5) "Educational programs and purposes" means financial assistance to Tennessee citizens to enable such citizens to attend post-secondary educational institutions located within Tennessee, capital outlay projects for kindergarten through grade twelve (K-12) educational facilities, early learning programs and after school programs in accordance with the provisions of Article XI, Section 5 of the Constitution of Tennessee;

(6) "Immediate family" means a spouse, child, step-child, brother, sister, son-in-law, daughter-in-law, parent or grandparent;

(7) "Local government unit" means any county, metropolitan government, incorporated town or city, or special district of the state;

(8) "Lottery," "lotteries," "lottery game," or "lottery games" means any game of chance approved by the board and operated pursuant to this chapter, including, but not limited to, instant tickets, on-line games and games using mechanical or electronic devices. For the purposes of this chapter, "lottery," "lotteries," "lottery game," or "lottery games" does not include:

(A) Casino gambling or games of chance associated with casinos and prohibited pursuant to Article XI, Section 5 of the Constitution of Tennessee. For the purposes of this item, "casino gambling" means a location or business for the purpose of conducting illegal gambling activities, excluding the sale and purchase of lottery tickets or shares as authorized by this chapter; or

(B) Video lottery. For the purposes of this item, "video lottery" means a lottery that allows a game to be played utilizing an electronic computer and an interactive terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which the player inserts coins or currency as consideration in order for play to be available, and through which terminal device, the player may receive free games or a voucher that can be redeemed for cash or non-cash prize, or nothing, determined wholly or predominantly by chance.

(9) "Lottery proceeds" or "proceeds" means all lottery revenue derived from the sale of lottery tickets or shares and all other monies derived from the lottery or received by the corporation;

(10) "Lottery retailer" or "retailer" means a person who sells lottery tickets or shares on behalf of the corporation pursuant to a contract;

(11) "Lottery vendor" or "vendor" means a person who provides or proposes to provide goods or services to the corporation pursuant to a major procurement contract, but does not include an employee of the corporation, a retailer, or a state agency or instrumentality thereof. Such term does include a corporation whose shares are traded publicly and which is the parent company of the contracting party in a major procurement contract;

(12) "Major procurement contract" means any gaming product or service costing in excess of seventy-five thousand dollars (\$75,000), including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, equipment, tickets, and other products and services unique to the Tennessee lottery, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation;

(13) "Minority-owned business" means a business which is solely owned, or at least fifty-one percent (51%) of the assets or outstanding stock of which is owned, by an individual who personally manages and controls the daily operations of such business and who is impeded from normal entry into the economic mainstream because of:

(A) Past practices of discrimination based on race, religion, ethnic background, or sex;

(B) A disability as defined in § 4-26-102; or

(C) Past practices of racial discrimination against African-Americans;

(14) "Net proceeds" or "net lottery proceeds" means all revenue derived from the sale of lottery tickets or shares and all other monies derived from lottery games less operating expenses. "Net proceeds" or "net lottery proceeds" does not include unclaimed prize money;

(15) "Operating expense" means all costs of doing business including, but not limited to, prizes, commissions, and other compensation paid to a lottery retailer, advertising and marketing costs, rental fees, personnel costs, capital costs, depreciation of property and equipment, amounts held in or paid from a fidelity fund pursuant to § 4-51-118, and all other operating costs;

(16) "Person" means any individual, corporation, partnership, unincorporated association, or other legal entity;

(17) "Prize" means an award, gift or anything of value regardless of whether there are conditions or restrictions attached to its receipt;

(18) "Share" means any intangible evidence of participation in a lottery game; and

(19) "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game.

Section 4-51-103. (a) The corporation shall be governed by a board of directors composed of seven (7) directors.

(b) The directors shall be residents of Tennessee, shall have expertise in their businesses or professions and shall be appointed by the Governor. All appointments shall be filed with the secretary of state within five (5) working days of appointment.

(c)(1) No person shall serve as a director of the corporation who has been convicted of:

(A) Any felony;

(B) A misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor;

(C) Any violation of this chapter; or

(D) Any offense in a federal court, military court or court of another state, territory or jurisdiction which under the laws of this state would disqualify such person pursuant to subdivisions (1)(A), (1)(B) or (1)(C).

(2) Prior to the appointment of a person as a director, the Governor shall submit the names of potential directors to the Tennessee Bureau of Investigation and the Tennessee Bureau of Investigation, pursuant to § 38-6-109, shall conduct a criminal history records check on all such persons. The Tennessee Bureau of Investigation may contract with the Federal Bureau of Investigation, other law enforcement agency or any other legally authorized entity to assist in such investigation. Such persons shall supply a fingerprint sample on request and in the manner requested by the investigating entity. The Tennessee Bureau of Investigation shall conduct such investigation as soon as practicable after submission of names by the Governor. The corporation shall pay, as an operating expense, the cost of the records check. The results of such a records check shall not be considered a record open to the public pursuant to Title 10, Chapter 7, Part 5.

(d) In making the appointments pursuant to subsection (b), the Governor shall strive to ensure that the board is composed of directors who are diverse in professional or educational background, ethnicity, race, gender, geographic residency, heritage, perspective and experience.

(e) Directors shall serve terms of five (5) years; provided that of the initial directors appointed:

(1) Two (2) directors shall be appointed for an initial term of one (1) year;

(2) Three (3) directors shall be appointed for an initial term of three (3) years; and

(3) Two (2) directors shall be appointed for an initial term of five (5) years.

After the initial terms, directors shall be appointed to serve five-year terms.

(f) All appointments of the directors shall be confirmed by joint resolution adopted by each house of the General Assembly prior to the commencement of the term of office to which such director is appointed. If the General Assembly is not in session when initial appointments are made, all initial appointees shall serve the terms prescribed pursuant to subsection (e) unless such appointments are not confirmed within thirty (30) days after the General Assembly next convenes following such appointments. Any vacancy on the board shall be filled by the Governor to serve the unexpired term and such appointment shall be confirmed in the same manner as the original appointment. However, if the General Assembly is not in session and a vacancy occurs, the Governor shall fill such vacancy by appointment and the appointee to such vacancy shall serve the unexpired term unless such appointment is not confirmed within thirty (30) days after the General Assembly next convenes following the appointment to fill such vacancy.

(g) The term of office of each director shall commence on July 1, following such director's appointment; provided that the term of office for each initial director shall commence on the date of appointment but shall be calculated, for purposes of the term, from July 1, 2003. If not reappointed, a director shall cease to hold office at the end of the director's term. All initial appointments of directors shall be made on, or before, July 1, 2003.

(h) A director of the board, or any member of their immediate family, shall not have a direct or indirect interest at the time of their appointment, or within a period of two (2) years prior to their appointment, in any undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, any interest, through ownership, stock or otherwise, in a major procurement contract or a participating retailer; provided that a director, or a member of such director's immediate family, may hold an incidental interest not to exceed one percent (1%) of the outstanding stock of a participating retailer.

(i) The directors shall elect from their membership a chair and vice-chair. The directors shall also elect a secretary and treasurer who may, from time-to-time, serve as the acting chief executive officer of the corporation. Such officers shall serve for such terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No director of the board shall hold more than one (1) office of the corporation, except that the same director may serve as secretary and treasurer.

(j) The board of directors may delegate to one (1) or more of its members, to the chief executive officer, or to any agent or employee of the corporation such powers and duties as it may deem proper.

(k) A majority of directors in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

(l) Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting directors.

(m) No vacancy in the membership of the board shall impair the right of the directors to exercise all the powers and perform all the duties of the board.

(n)(1) Upon approval by the chair, directors of the board shall be reimbursed for actual and reasonable expenses incurred or a per diem not to exceed the per diem provided to members of the General Assembly pursuant to § 3-1-106 for each day's service spent in the performance of the duties of the corporation or both.

(2) Directors shall not receive a salary for their duties.

(o)(1) The Governor may remove a director for neglect of duty or misconduct in office.

(2) If the Governor seeks removal of a director pursuant to the provisions of this subsection, the Governor shall deliver to the director a copy of the charges levied against such director together with a notice of hearing affording such director an opportunity to be heard in person or by counsel to defend publicly against such charges prior to removal. The notice of hearing shall be served upon the director no later than ten (10) days prior to the hearing date.

(3) If such director is removed, the Governor shall file in the office of the secretary of state a complete statement of all charges made against the director and the Governor's findings thereon, together with a complete record of the proceedings.

(4) If a director is removed, such vacancy shall be filled in the same manner as other vacancies on the board.

(p) No director shall make a contribution to the campaign of a candidate for the General Assembly or to a candidate for Governor.

Section 4-51-104. (a) The board of directors shall appoint and shall provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall direct the day-to-day operations and management of the corporation and shall be vested with such powers and duties as specified by the board and by law. The chief executive officer shall serve at the pleasure of the board.

(b) The board of directors shall provide the chief executive officer with private sector perspectives of a large marketing enterprise.

(c) The board of directors shall:

(1) Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the corporation;

(2) Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer;

(3) Hear appeals required by this chapter;

(4) Adopt regulations, policies, and procedures relating to the conduct of lottery games and as specified in § 4-51-108; and

(5) Perform such other functions as specified by this chapter.

Section 4-51-105. (a) The corporation shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this chapter which are not in conflict with the constitution of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits, including, but not limited to, the following powers:

(1) To sue and be sued in contract and in tort and to complain and defend in all courts;

(2) To adopt and alter a seal;

(3) To adopt, amend, and repeal bylaws, regulations, and policies and procedures for the regulation of its affairs and the conduct of its business; to elect and prescribe the duties of officers and employees of the corporation; and to perform such other matters as the corporation may determine. In the adoption of bylaws, regulations, policies, and procedures or in the exercise of any regulatory power, the corporation shall be exempt from the requirements of the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5;

(4) To procure or to provide insurance;

(5) To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;

(6) To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this chapter and regulations, policies, and procedures adopted pursuant thereto;

(7) To enter into written agreements with one (1) or more other states or sovereigns for the operation, participation in marketing, and promotion of a joint lottery or joint lottery games;

(8) To conduct such market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication;

(9) To acquire or lease real property and make improvements thereon and acquire by lease or by purchase tangible personal property and intangible personal property;

(10) To enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial bank or credit provider; provided that any such debt must be approved by the state funding board;

(11) To be authorized to administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to any investigation or proceeding conducted by the corporation;

(12) To appoint and select officers, agents, and employees, including professional and administrative staff and personnel and hearing officers to conduct hearings required by this chapter, and to fix their compensation, pay their expenses, and provide a benefit program, including, but not limited to, a retirement plan and a group insurance plan; provided that the corporation may become a participating employer in the Tennessee consolidated retirement system pursuant to Section 4 of this act and may be eligible as a quasi-governmental organization for state group health insurance pursuant to § 8-27-207;

(13) To select and contract with vendors and retailers;

(14) To enter into contracts or agreements with the Tennessee Bureau of Investigation, local law enforcement agencies, appropriate federal agencies or private companies for the performance of criminal record checks, background investigations and security checks;

(15) To enter into contracts of any and all types on such terms and conditions as the corporation may determine;

(16) To establish and maintain banking and other financial relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit;

(17) To advertise and promote the lottery and lottery games in a dignified and responsible manner;

(18) To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate sales facilities to sell lottery tickets or shares and any related merchandise;

(19) To establish and maintain regional offices; provided that there shall be at least one (1) such office in each grand division; and

(20) To adopt and amend such regulations, policies, and procedures as necessary to carry out and implement its powers and duties, organize and operate the corporation, regulate the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of any such regulations, policies, and procedures shall be exempt from the requirements of the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(b) The provisions of Title 67, Chapter 4, Parts 7, 20 and 21 shall not apply to the activities of the corporation.

(c) The powers enumerated in subsection (a) of this section are cumulative of and in addition to those powers enumerated elsewhere in this chapter, and do not limit or restrict any other powers of the corporation.

Section 4-51-106. (a)(1) Investment of funds of the corporation shall be undertaken in a manner that first seeks to ensure preservation of principal, next ensures the liquidity needs of the corporation are met and, after satisfaction of the preceding objectives, seeks a market rate of return.

(2) Pursuant to § 4-51-105(a)(3), the corporation shall adopt an investment policy to govern the investment of assets consistent with the objectives listed in subdivision (1).

(3) A copy of such policy, and any revisions thereto, shall be filed with the state funding board.

(b) The corporation shall be authorized to invest in securities as provided in § 9-4-602; provided that if the business needs of the corporation necessitate investment in securities or classes of securities not specifically authorized in § 9-4-602, the corporation shall be authorized to invest in such additional securities or classes of securities after filing a statement with the state funding board describing the need for, and nature of, such additional security or classes of securities.

(c) The corporation is authorized, but not required, to invest its monies as part of the local government investment pool created in Title 9, Chapter 4, Part 7 and shall be deemed to be eligible for participation in such pool.

Section 4-51-107. (a) In accordance with § 4-51-105(a)(16), the corporation shall establish and maintain bank accounts only in institutions deemed to be a qualified public depository pursuant to Title 9, Chapter 4, Part 5; provided that if business needs dictate the establishment of accounts with an institution other than a qualified public depository, the corporation may create such accounts after filing a statement with the state funding board describing the business need for accounts at such an institution and the corporation's plan for securing funds on deposit with such an institution.

(b) For purposes of § 45-2-611, the corporation shall be considered a "governmental entity" and funds in its possession shall be deemed to be "public funds".

Section 4-51-108. (a) The board may adopt regulations, policies, and procedures regulating the conduct of lottery games in general, including, but not limited to, regulations, policies, and procedures specifying:

(1) The type of games to be conducted, including, but not limited to, instant lotteries, online games, and other games traditional to the lottery. Such games may include the selling of tickets or shares or the use of electronic or mechanical devices; provided that the board shall not approve, and the corporation shall not operate, video lottery as defined in § 4-51-102(8)(B);

(2) The sales price of tickets or shares and the manner of sale; provided that all sales shall be for cash only and that payment by checks, credit cards, charge cards or any form of deferred payment is prohibited. For the purposes of this subdivision, "cash" means coins or notes. Nothing in this part shall be construed as prohibiting or restricting the direct sale of lottery tickets or shares by the corporation through any form of payment and in any amount;

(3) The type, number and amount of prizes;

(4) The method and location of selecting or validating winning tickets or shares;

(5) The manner and time of payment of prizes, which may include lump sum payments or installments over a period of years;

(6) The manner of payment of prizes by the corporation or a lottery retailer to the holders of winning tickets or shares, including, without limitation, provision for payment of prizes not exceeding six hundred dollars (\$600) after deducting the price of the ticket or share and after performing validation procedures appropriate to the game and as specified by the board;

(7) The frequency of games and drawings or selection of winning tickets or shares;

(8) The means of conducting drawings;

(9)(A) The method to be used in selling tickets or shares, which may include the use of electronic or mechanical devices, but such devices shall only be placed in locations on the premises of the lottery retailer which are within the view of such retailer or an employee of such retailer and, if outside the area of immediate control of the retailer, such devices shall be equipped with technology allowing such retailer to remotely deactivate such device. All electronic or mechanical devices outside the area of immediate control of the retailer shall bear a conspicuous label at least twelve inches (12") in circumference

prohibiting the use of such device by persons under eighteen (18) years of age, stating the following:

ATTENTION: STATE LAW STRICTLY PROHIBITS THE SALE OF LOTTERY TICKETS TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS; PROOF OF AGE MAY BE REQUIRED FOR PURCHASE.

* * *

ATENCION: POR LEY DEL ESTADO DE TENNESSEE ES ESTRUCTAMENTE PROHIBIDO VENDER BOLETAS DE LOTERIA A PERSONAS MENORES DE DIECIOCHO AÑOS; PRUEBA DE EDAD PUEDE SER REQUERIDA PARA COMPRARLAS.

(B) A lottery retailer who allows a person under eighteen (18) years of age to purchase a lottery ticket or share from an electronic or mechanical device shall be subject to the penalties provided in § 39-17-602:

(10) The manner and amount of compensation to lottery retailers; and

(11) Any and all other matters necessary, desirable, or convenient toward ensuring the efficient and effective operation of lottery games, the continued entertainment and convenience of the public, and the integrity of the lottery.

(b) The board may delegate the adoption of regulations, policies, and procedures relating to the conduct of lottery games to the chief executive officer.

(c) The corporation shall not print on any lottery ticket a representation or likeness of the state flag, as provided in § 4-1-301, or the state seal, as provided in § 4-1-314.

Section 4-51-109. (a) The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the regulations, policies, and procedures adopted by the board. It shall be the duty of the chief executive officer to:

(1) Facilitate the initiation and supervise and administer the operation of the lottery games;

(2) Employ and direct such personnel as deemed necessary;

(3) Employ by contract and compensate such persons and firms as deemed necessary;

(4) Promote or provide for promotion of the lottery and any functions related to the corporation;

(5) Prepare a budget for the approval of the board;

(6) Require bond from such retailers and vendors in such amounts as required by the board;

(7) Report quarterly to the state comptroller, the state treasurer, the legislative select committee created pursuant to Section 3 of this act and the board a full and complete statement of lottery revenues and expenses for the preceding quarter; and

(8) Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

(b) The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the regulations, policies, and procedures of the board.

(c) The chief executive officer or his designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

(d)(1) No person shall serve as chief executive officer of the corporation who has been convicted of:

(A) Any felony;

(B) A misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor;

(C) Any violation of this chapter; or

(D) Any offense in a federal court, military court or court of another state, territory or jurisdiction which under the laws of this state would disqualify such person pursuant to subdivisions (1)(A), (1)(B) or (1)(C).

(2) Prior to employment of a person as the chief executive officer, the board shall submit the names of potential chief executive officers to the Tennessee Bureau of Investigation and the Tennessee Bureau of Investigation, pursuant to § 38-6-109, shall conduct a criminal history records check on all such persons. The Tennessee Bureau of Investigation may contract with the federal bureau of investigation, other law enforcement agency or any other legally authorized entity to assist in such investigation. Such persons shall supply a fingerprint sample on request and in the manner requested by the investigating entity. The Tennessee Bureau of Investigation shall conduct such investigation as soon as practicable after submission of names by the board. The corporation shall pay, as an operating expense, the cost of the records check. The results of such a records check shall not be considered a record open to the public pursuant to Title 10, Chapter 7, Part 5.

(e) No person shall be selected to serve as the initial chief executive officer of the corporation who does not possess:

(1) At least two (2) years of experience as a chief executive officer or chief operating officer of a state lottery within the United States; or

(2) At least five (5) years of management level experience with a state lottery within the United States.

Section 4-51-110. (a) The corporation shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees, including, but not limited to, production incentive payments.

(b) No employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

(c) No employee of the corporation, with decision-making authority, shall participate in any decision involving a retailer with whom the employee has a financial interest.

(d) No employee of the corporation who leaves the employment of the corporation may represent any vendor or lottery retailer before the corporation for a period of two (2) years following termination of employment with the corporation.

(e) Prior to employment of a person as an employee of the corporation at the level of division director and above and at any level within the division of security and as otherwise required by the board, the chief executive officer, or such officer's designee, shall submit the names of potential employees to the Tennessee Bureau of Investigation and the Tennessee Bureau of Investigation, pursuant to § 38-6-109, shall conduct a criminal history records check on all such persons. The Tennessee Bureau of Investigation may contract with the federal bureau of investigation, other law enforcement agency or any other legally authorized entity to assist in such investigation. Such persons shall supply a fingerprint sample on request and in the manner requested by the investigating entity. The Tennessee Bureau of Investigation shall conduct such investigation as soon as practicable after submission of names by the chief executive officer or such officer's designee. The corporation shall pay, as an operating expense, the cost of the records check. The results of such a records check shall not be considered a record open to the public pursuant to Title 10, Chapter 7, Part 5.

(f) No person shall be employed by the corporation who has been convicted of:

(1) Any felony;

(2) A misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor;

(3) Any violation of this chapter; or

(4) Any offense in a federal court, military court or court of another state, territory or jurisdiction which under the laws of this state would disqualify such person pursuant to subdivisions (1), (2) or (3).

(g) The corporation shall bond corporation employees with access to corporation funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

Section 4-51-111. (a)(1) All lottery proceeds shall be the property of the corporation.

(2) From its lottery proceeds the corporation shall pay the operating expenses of the corporation. As nearly as practical, at least fifty percent (50%) of the amount of money from the actual sale of lottery tickets or shares shall be made available as prize money; provided that this subdivision shall not be deemed to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries.

(3) As nearly as practical, for each fiscal year, net lottery proceeds shall equal at least thirty-five percent (35%) of the lottery proceeds or an amount that maximizes net lottery proceeds; provided that for the first two (2) full fiscal years and any partial first fiscal year of the corporation, net lottery proceeds need only equal, as nearly as practical, thirty percent (30%) of the lottery proceeds. If, after the second full fiscal year, the corporation determines that an amount that maximizes net lottery proceeds is less than thirty-five percent (35%) of the lottery proceeds, then, immediately upon making such determination, the corporation shall file with the state funding board a statement of reasons supporting such determination and a projection of such amount.

(b)(1) There is created within the state treasury a "lottery for education account". Amounts remaining in the account at the end of each fiscal year shall not revert to the general fund. Money in the account shall be invested by the state treasurer pursuant to Title 9, Chapter 4, Part 6 for the sole benefit of the account. All earnings attributable to such investments shall be credited to the lottery for education account.

(2) On or before the fifteenth day of the first month of each quarter, the corporation shall transfer to the state treasury, for credit to the lottery for education account, an amount representing the net lottery proceeds for the immediately preceding quarter. Upon deposit into the state treasury, net lottery proceeds shall become the unencumbered property of the State of Tennessee and the corporation shall have no power to agree or undertake otherwise. Except as otherwise provided in subdivision (3), such funds shall be expended for education programs and purposes in accordance with Article XI, Section 5 of the Constitution of Tennessee.

(3)(A) A general shortfall reserve subaccount shall be maintained within the lottery for education account.

(B) Except as provided in subdivision (D) of this subsection, the amount of the general shortfall reserve subaccount shall equal five percent (5%) of net lottery proceeds deposited into the lottery for education account from all deposits made to the fund from the initial deposit until the last deposit made in fiscal year 2007-2008. Transfers to the general shortfall reserve subaccount shall be made from the lottery for education account quarterly until the end of such fiscal year. Thereafter, only an amount necessary to maintain the general shortfall reserve subaccount in an amount equal to such accumulated total shall be deposited into the subaccount.

(C) If the net lottery proceeds deposited into the lottery for education account in any year, exclusive of the amount in the general shortfall reserve subaccount, are not sufficient to meet the amount appropriated for educational programs and purposes pursuant to subsection (c) of this section, the general shortfall reserve subaccount may be drawn upon to meet the deficiency; provided that reserves in the account shall be used first for any shortfall in the amount appropriated to the educational scholarship program and then to any other educational programs and purposes otherwise provided by law for which net lottery proceeds may be expended. In the event it becomes necessary to draw from the general shortfall reserve subaccount in any fiscal year for educational programs and purposes, such programs and purposes shall be reviewed and shall be reduced to the amount of available net lottery proceeds, exclusive of the general shortfall reserve subaccount, estimated to be available in the next fiscal year. In the event the general shortfall reserve subaccount is drawn upon in any fiscal year, the subaccount shall be brought back to its prior level in subsequent fiscal years. Five percent (5%) of net lottery proceeds shall be deposited into the lottery for education account each quarter until the amount of the general shortfall reserve subaccount equals the accumulated total prior to being drawn upon. Notwithstanding any provision of this subdivision to the contrary, the program reduction and repayment provisions of this subdivision shall not be triggered if amounts in excess of the accumulated total are recommended for appropriation pursuant to subdivision (D) of this subsection.

(D) In addition to the amount provided pursuant to subdivision (B) of this subsection, the funding board may recommend appropriation of funds to the general shortfall reserve subaccount if such fund is deemed inadequate. The funding board may recommend appropriation of funds from the general shortfall reserve subaccount if adequate funds are deemed to be available in the general shortfall reserve subaccount and if such funds are needed for educational programs and purposes consistent with Article XI, Section 5 of the Constitution of Tennessee; provided that "adequate funds" shall not be deemed to be available if such recommended appropriation would reduce the general shortfall reserve account below the accumulated total amount established by the provisions of subdivision (B) of this subsection.

(4) A special reserve subaccount shall be maintained within the lottery for education account. The amount of the special reserve subaccount shall be equal to one percent (1%) of net lottery proceeds deposited into the lottery for education account from all deposits made to the fund from the initial deposit until the last deposit made in fiscal year 2007-2008. Transfers to the special reserve subaccount shall be made from the lottery for education account quarterly until the end of such fiscal year. The amount in the special reserve subaccount may be used to make or support loans to local government units for educational programs and purposes in accordance with Article XI, Section 5 of the Constitution of Tennessee and to pay or secure debt issued for such programs and purposes as otherwise provided by law. Such amount shall supplement, not supplant, non-lottery educational resources for such programs and purposes. Notwithstanding any provision of this section to the contrary, treasurer's earnings on the special reserve subaccount shall be credited to the special reserve subaccount to be used in a manner consistent with this subdivision.

(c)(1) No later than the date upon which the state funding board presents state revenue estimates to the Governor pursuant to § 9-4-5202(e)(3) in 2003, the funding board shall establish a projected revenue range for net lottery proceeds for the remainder of the current fiscal year and the next succeeding fiscal year. No later than the date of presentation of such estimates to the Governor by the state funding board in all subsequent years, the funding board shall project the revenue for net lottery proceeds for the remainder of the then current fiscal year and the next succeeding fiscal year. Such projection shall be made in the same manner as other state revenues are projected by the funding board, which figure may be adjusted prior to the enactment of the General Appropriations Act. In making such projections, the funding board shall recognize unusual fluctuations in lottery proceeds. In making such projections, the funding board is authorized to obtain information from those having expertise and experience in projecting revenue from the sale of lottery tickets or shares.

(2)(A) Before December 15, 2003, and before December 15 in each succeeding year, the Tennessee student assistance corporation shall prepare a report setting forth an estimate of the total cost of lottery related financial assistance to be provided to Tennessee citizens during the next fiscal year pursuant to the provisions of Senate Bill No. 437 / House Bill No. 787, Chapter No. ___ of the Public Acts of 2003. Such report shall include the major assumptions and the methodology used in arriving at such estimate. For the report due in December 2003, the Tennessee student assistance corporation shall base its estimate of total costs on the award values established pursuant to the provisions of Senate Bill No. 437 / House Bill No. 787, Chapter No. ___ of the Public Acts of 2003. For subsequent reports, the Tennessee student assistance corporation shall base its estimate of total costs on the award values in effect at the time the report is prepared. The Tennessee higher education commission, the board of trustees of the university of Tennessee system, the state board of regents, the Department of Education and the Tennessee independent college and universities association shall provide the Tennessee student

assistance corporation with such information as is needed to prepare its report. The Tennessee student assistance corporation shall deliver its report to the Governor, the funding board, the Speaker of the Senate, the Speaker of the House of Representatives, the chairs of the Senate and House Finance, Ways and Means committees, the chairs of the Senate and House Education Committees and to the members of the select committee on the Tennessee Education Lottery Corporation.

(B) Before December 15, 2003, and before December 15 in each succeeding year, appropriate state agencies shall submit to the funding board and to the Governor their recommendations for other educational programs and purposes consistent with Article XI, Section 5 of the Tennessee Constitution based on the difference between the funding board's projections and recommendations for the lottery scholarship program based on the report submitted pursuant to subdivision (A). In no event shall such recommendations exceed the projections of the funding board for a specific fiscal year.

(3)(A) The Governor shall submit to the General Assembly in the annual budget document prepared pursuant to Title 9, Chapter 4, Part 51 recommendations concerning the distributions to be made from the lottery for education account based on the projections of the funding board, including recommended appropriations by the funding board from the general shortfall reserve subaccount, if any, and any treasurer's earnings credited to the lottery for education account.

(B) In a separate budget category entitled "net education lottery proceeds", the Governor shall estimate the amount of net lottery proceeds and treasurer's earnings thereon to be credited to the lottery for education account during the fiscal year and the amount of unappropriated surplus estimated to be accrued in the account at the beginning of the fiscal year. The sum of estimated net lottery proceeds, treasurer's earnings thereon, and unappropriated surplus shall be designated "net education lottery proceeds".

(C) In the budget document, the Governor shall submit specific recommendations as to the educational programs and purposes for which appropriations should be made from the lottery for education account. Such recommendation shall include the specific value of each category of awards to be offered pursuant to the provisions of Senate Bill No. 437 / House Bill No. 787, Chapter No. ___ of the Public Acts of 2003. The recommendation for each category of award shall be the value of such award as set in the previous General Appropriations Act unless such value, based on the estimates of TSAC and the funding board, should be adjusted in a manner consistent with the provisions of Senate Bill 437 No. / House Bill No. 787, Chapter No. ___ of the Public Acts of 2003 and the provisions of this act.

(D) The Governor's recommendations as to the educational programs and purposes for which appropriations should be made in

accordance with the provisions of this subdivision shall be referred to the education committees of both houses for recommendation and comments prior to final action by the Finance, Ways and Means Committees of both houses on the General Appropriations Act.

(4) The General Assembly shall appropriate from the lottery for education account by specific reference to it, or by reference to "net education lottery proceeds". All appropriations to any particular budget unit shall be made together in a separate part entitled, identified, administered and accounted for separately as a distinct budget unit for net education lottery proceeds. Such appropriations shall otherwise be made in the manner required by law for appropriations.

(5) It is the intent of the General Assembly that appropriations from the lottery for education account shall be allocated and expended for educational programs and purposes only in accordance with Article XI, Section 5 of the Constitution of Tennessee. Such net education lottery proceeds shall be used to supplement, not supplant, existing resources for educational programs and purposes.

(d) Any funds appropriated, but not expended, for educational programs or purposes from the lottery for education account or from the general shortfall reserve subaccount shall not revert to the general fund at the end of the fiscal year but shall be credited, respectively, to the lottery for education account or the general shortfall reserve subaccount and retained there until allocated and appropriated as provided in subsections (b)(3) and (c).

(e) In compliance with the requirement of this act that there shall be a separate accounting of net education lottery proceeds, no deficiency in the lottery for education account shall be replenished by book entries reducing any non-lottery reserve of general funds, including specifically but without limitation the reserve for revenue fluctuations or other reserve accounts established by law; nor shall any program or project started specifically from net education lottery proceeds be continued from the general fund; such programs must be adjusted or discontinued according to available net education lottery proceeds unless the General Assembly by general law establishes eligibility requirements and appropriates specific other funds within the General Appropriations Act; nor shall any non-lottery surplus in the general fund be reduced. No surplus in the lottery for education account shall be reduced to correct any non-lottery deficiencies in sums available for general appropriations, and no surplus in the lottery for education account shall be included in any revenue or surplus calculated for setting aside any additional funds in the reserve for revenue fluctuations as provided in § 9-4-211.

(f)(1) There is created a special account in the state treasury to be known as the "after school programs special account", hereinafter referred to as the "after school account". In accordance with § 4-51-123, fifty percent (50%) of monies constituting an unclaimed prize shall be deposited in the after school account at the end of each fiscal year.

(2) In any fiscal year in which the financial assistance program for attendance at post-secondary educational institutions located within this state

is funded pursuant to Title 49, Chapter 4, Part 9, and excess is available from net lottery proceeds for other educational purposes and projects consistent with Article XI, § 5 of the Constitution of Tennessee, then in any such fiscal year monies in the after school account may be appropriated by the General Assembly from such account pursuant to subdivision (3).

(3) Monies in the after school account shall be used exclusively for after school programs consistent with Article XI, § 5 of the Constitution of Tennessee. Such monies shall supplement, not supplant, non-lottery educational resources for after school educational programs and purposes. The General Assembly shall appropriate from the after school programs special account by specific reference to it, or by reference to the "after school account". Such appropriations shall otherwise be made in the manner required by law for appropriations.

(4) Any reserve balance remaining unexpended at the end of a fiscal year in the after school account shall not revert to the general fund but shall be carried forward into the subsequent fiscal year.

(5) Notwithstanding any provision of this section to the contrary, interest accruing on investments and deposits of the after school account shall be credited to such account, shall not revert to the general fund and shall be carried forward into the subsequent fiscal year.

(6) Monies in the after school account shall be invested by the state treasurer in accordance with the provisions of § 9-4-603.

Section 4-51-112. (a) It is the intent of the General Assembly that the corporation encourage participation by minority-owned businesses. Accordingly, the board of directors shall adopt a plan which achieves to the greatest extent possible a level of participation by minority-owned businesses taking into account the total number of all retailers and vendors, including any subcontractors. The corporation is authorized and directed to undertake training programs and other educational activities to enable such minority-owned businesses to compete for contracts on an equal basis. The corporation will strive to maximize participation of minority-owned businesses to achieve a minimum participation goal of fifteen percent (15%) through both prime and second tier business contracting opportunities. The board shall monitor the results of minority-owned business participation and shall report the results of minority-owned business participation to the General Assembly at least on an annual basis.

(b)(1) The chairperson of the board, in consultation with the board of directors, shall appoint an advisory council on minority business participation. The council shall be composed of nine (9) citizens, three (3) of whom shall be appointed from and represent each grand division of the state. The membership of the council shall collectively reflect a richness of diversity in professional and business experience, educational attainment, ethnicity, race, gender, heritage, and socio-economic perspective.

(2) The advisory council on minority business participation shall serve as an educational, research and technical resource for the board of directors.

It shall be a duty of the council to solicit, analyze and present the views and concerns of minority business owners throughout the state. The council may report to the board of directors or to the legislative select committee in writing at any time. The board of directors may invite the council to present oral testimony to the board of directors at any meeting of the board.

(3) The advisory council on minority business participation shall annually elect from its membership a chair, a vice chair and such other officers, as it deems necessary. The council shall meet at least quarterly at the call of the chair. The organizational meeting of the advisory board shall be convened by the chair of the board of directors.

(4) Members appointed to the advisory council shall each serve regular terms of three (3) years; provided, however, in order to stagger such terms, three (3) of the initial appointees shall serve terms of two (2) years, and three (3) of the initial appointees shall serve terms of one (1) year.

(5) The advisory council on minority business participation shall establish its own rules and internal operating procedures. As an operating expense of the corporation, members of the advisory council shall receive a per diem not to exceed the per diem provided to members of the General Assembly pursuant to § 3-1-106, for each day's service spent in the performance of the duties and responsibilities of the advisory council.

Section 4-51-113. (a) The corporation shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement. At the time of submitting such bid, proposal, or offer to the corporation, the corporation shall require the following items:

(1) A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors, and each stockholder in such corporation; provided that in the case of owners of equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own beneficially one percent (1%) or more of such securities need be disclosed;

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust;

(C) If the vendor is an association, the members, officers, and directors; and

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.

(2) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business in each such state or jurisdiction;

(3) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the goods or services involved for each such state or jurisdiction;

(4) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license of any kind or had fines or penalties assessed to the vendor's license, contract, or operation and the disposition of such in each such state or jurisdiction. If any lottery or gaming license or contract has been revoked or has not been renewed or any lottery or gaming license or application has been either denied or is pending and has remained pending for more than six (6) months, all of the facts and circumstances underlying the failure to receive such a license shall be disclosed;

(5)(A) A disclosure of the details of any finding or plea, conviction, or adjudication of guilt in a state or federal court, or in another jurisdiction, of the vendor for any felony or any other criminal offense other than a traffic violation;

(B) A disclosure of the details of any finding or plea, conviction, or adjudication of guilt in a state or federal court, or in another jurisdiction, of any present employee, or past employee within ten (10) years, of the vendor for any felony or misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor.

(6) A disclosure of the details of any bankruptcy, insolvency, reorganization, or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the vendor;

(7) A disclosure of the vendor's minority-owned business participation plan, if a portion of the vendor's contract is to be subcontracted pursuant to the provisions of the proposal or, if at any time thereafter, a portion of such vendor's contract is subcontracted; and

(8) Such additional disclosures and information as the corporation may determine to be appropriate for the procurement involved.

(b) If ten percent (10%) or more of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a vendor.

(c) A lottery procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in

subsections (a) and (b) of this section and any contract with such a vendor is voidable at the option of the corporation. Any contract with a vendor who does not comply with such requirements for periodically updating such disclosures during the tenure of contract as may be specified in such contract may be terminated by the corporation. The provisions of this section shall be construed broadly and liberally to achieve the ends of full disclosure of all information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background, and character of vendors for major procurements.

(d) A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of a lottery in this or any other jurisdiction.

(e) A major procurement contract shall not be entered into with any vendor if such vendor has an ownership interest in an entity that had supplied consultation services under contract to the corporation regarding the request for proposals pertaining to those particular goods or services.

(f) For the purposes of this chapter, "jurisdiction" includes, but is not limited to:

(1) Any Native American tribal government;

(2) Any governmental body at the national, state or local level in the United States or its territories and possessions; and

(3) Any governmental body at the national or state, or its equivalent, level in any other country.

(g) No lottery system vendor nor any applicant for a major procurement contract may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100) in any calendar year, to any director, the chief executive officer or any employee of the corporation, or to a member of the immediate family of any such person.

(h) Notwithstanding any provision of this part to the contrary, no applicant for a major procurement contract, or any person employed by such applicant, may contact or otherwise solicit a member of the board of directors individually during the application and selection process for such contract. All contact and other solicitations made by an applicant for a major procurement contract, or any person employed by such applicant, shall be directed to the board as a whole.

Section 4-51-114. (a)(1) Except as provided in subdivision (2), each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank or credit provider acceptable to the corporation in an amount as deemed necessary by the corporation for that particular bid or contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest bearing or accruing and that are rated in one (1) of the three (3) highest classifications by an established nationally

recognized investment rating service. Securities eligible under this section are limited to:

(A) Certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States;

(B) United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(C) Corporate bonds approved by the corporation. The corporation that issued the bonds shall not be an affiliate or subsidiary of the depositor.

Such securities shall be held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the lottery vendor under contract.

(2) Because of certain economic considerations, minority businesses may not be able financially to comply with the bonding, deposit of securities, or letter of credit requirements of subdivision (1). In order to assure minority participation in major procurement contracts to the most feasible and practicable extent possible, the chief executive officer is authorized and directed to waive the bonding, deposit of securities, and letter of credit requirements of subdivision (1) for a period of five (5) years from the time that a minority business enters into a major procurement contract for any minority business which substantiates financial hardship pursuant to the policies and procedures established by the board.

(b) Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state. All contracts under this section shall be governed by the laws of Tennessee.

(c) No contract shall be let with any vendor in which a public officer, as covered in § 8-50-501(a), or an employee of such officer, has an ownership interest of one percent (1%) or more.

Section 4-51-115. (a) The General Assembly recognizes that to conduct a successful lottery, the corporation must develop and maintain a state-wide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

(b) The corporation shall make every effort to provide small retailers a chance to participate in the sales of lottery tickets or shares.

(c)(1) The corporation shall provide for compensation to lottery retailers in the form of commissions for the sale and cashing of lottery tickets or shares in an amount of not less than six and one-half percent (6 ½ %) of gross sales. Each

lottery retailer shall be required to cash lottery tickets or shares up to the amount authorized pursuant to § 4-51-108(a)(6) in the manner adopted by regulation, policy, or procedure of the board but shall be paid no additional compensation for cashing such lottery tickets or shares.

(2) In addition to the commissions for services rendered by lottery retailers pursuant to subdivision (1), the corporation may provide for other forms of compensation for services rendered by lottery retailers relating to the sale of lottery tickets or shares.

(d) The corporation shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display; provided that if a retailer contract permits sales at multiple locations, a separate certificate shall be issued for each authorized location. Every lottery retailer shall post and keep conspicuously displayed in a location on the premises where lottery tickets or shares are sold, and accessible to the public, its certificate of authority. No certificate shall be assignable or transferable.

(e) Notwithstanding any provision of law to the contrary, no business seeking to become a lottery retailer shall be prohibited from applying to the corporation, and if successful in such application, from selling lottery tickets or shares, including, but not limited to, businesses licensed pursuant to Title 57, Chapter 3, Part 2; provided that the corporation shall not issue, sell or authorize the sale of lottery tickets at any location licensed to provide deferred presentment services pursuant to Title 45, Chapter 17, Part 1, or to any pawnshop, as defined in § 45-6-203, or to any business engaged exclusively in the business of selling lottery tickets or shares; provided further that this subsection shall not preclude the corporation from selling or giving away lottery tickets or shares.

(f) The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and on-line retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The board shall not consider political affiliation, activities, or monetary contributions to political organizations or candidates for any public office. The criteria shall include, but not be limited to, the following:

(1) The applicant shall be current in filing all applicable tax returns to the State of Tennessee and in payment of all taxes, interest, and penalties owed to the State of Tennessee, excluding items under formal appeal pursuant to applicable statutes. The Department of Revenue is authorized and directed to provide this information to the corporation upon request;

(2) No person, partnership, unincorporated association, corporation, including the board and executive officers thereof, or other business entity shall be selected as a lottery retailer who:

(A) Has been convicted of a criminal offense related to the security or integrity of a lottery in this state or any other jurisdiction;

(B) Has been convicted of any felony involving gambling or any misdemeanor involving gambling, theft, computer offenses, forgery, perjury, dishonesty or unlawfully selling or providing a product or substance to a minor in this state or any other jurisdiction unless such person's civil rights have been restored or at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described in this subdivision (2)(B);

(C) Has been found to have violated the provisions of this chapter or any regulation, policy, or procedure of the corporation unless either ten (10) years have passed since the violation or the board finds the violation both minor and unintentional in nature;

(D) Is a vendor or any employee or agent of any vendor doing business with the corporation;

(E) Resides in the same household as a director or an officer of the corporation; or

(F) Has made a statement of material fact to the corporation knowing such statement to be false.

(g)(1) Persons applying to become lottery retailers shall be charged a uniform application fee for each lottery outlet. Retailers who participate in on-line games shall be charged a uniform application fee for each on-line outlet;

(2) Any lottery retailer contract executed pursuant to this section may, for good cause, be suspended, revoked, or terminated by the chief executive officer, or such officer's designee, if the retailer is found to have violated any provision of this chapter or objective criteria established by the board. Review of such activities shall be in accordance with the procedures outlined in this chapter and shall not be subject to the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5;

(3) All lottery retailer contracts shall be renewable annually unless, in the discretion of the corporation, sooner canceled or terminated. At the time of renewal, the corporation shall review the lottery retailer's compliance with the provisions of this chapter and Title 39, Chapter 17, Part 6. The corporation shall renew such contracts only if the lottery retailer is in compliance with the provisions of this chapter and Title 39, Chapter 17, Part 6 and would otherwise be eligible to be a lottery retailer pursuant to the provisions of this chapter and the terms of the retailer's contract; provided that a violation of the provisions of Title 39, Chapter 17, Part 6 by an employee of a lottery retailer shall only prohibit the issuance of a certificate of authority for the specific location of such violation for a period of one (1) year from the date of conviction unless, in the case of a lottery retailer operating multiple locations and in the discretion of the corporation, the entire contract should be canceled or terminated as otherwise provided by this chapter or by the retailer's contract.

(h) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor,

hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100) in any calendar year, to any director, the chief executive officer or any employee of the corporation, or to a member of the immediate family of any such person.

Section 4-51-116. (a) The chairperson of the board of directors shall appoint a lottery retailer advisory board to be composed of twelve (12) lottery retailers, four (4) from each grand division, representing the broadest possible spectrum of geographical, racial and business characteristics of lottery retailers. The function of the advisory board shall be to advise the board of directors on retail aspects of the lottery and to present the concerns of lottery retailers throughout the state.

(b) Members appointed to the lottery retailer advisory board shall serve terms of two (2) years; provided that six (6) of the initial appointees shall serve terms of one (1) year.

(c) The advisory board shall establish its own rules and internal operating procedures. The advisory board may report to the board of directors or to the legislative select committee in writing at any time. The board of directors may invite the advisory board to make an oral presentation to the board of directors at regular meetings of the board.

(d) As an operating expense of the corporation, members of the advisory board shall receive a per diem not to exceed the per diem provided to members of the General Assembly pursuant to § 3-1-106, for each day's service spent in the performance of the duties and responsibilities of the advisory board.

Section 4-51-117. (a) No lottery retailer contract shall be transferable or assignable.

(b) No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

(c) Lottery tickets and shares shall only be sold by the retailer stated on the lottery retailer certificate of authority.

Section 4-51-118. (a) The corporation may establish a fidelity fund separate from all other funds and shall assess each retailer a one-time fee not to exceed one hundred dollars (\$100) per sales location. In accordance with § 4-51-106, the corporation is authorized to invest the funds or place such funds in one (1) or more interest-bearing accounts. Moneys deposited to the fund may be used to cover losses the corporation experiences due to nonfeasance, misfeasance or malfeasance of a lottery retailer. In addition, the funds may be used to purchase blanket bonds covering the corporation against losses from all lottery retailers. At the end of each fiscal year, the corporation shall pay to the lottery for education account any amount in the fidelity fund that exceeds five hundred thousand dollars (\$500,000), and such funds shall be commingled with and treated as net proceeds from the lottery.

(b) A reserve account may be established as a general operating expense account to cover amounts deemed uncollectable. The corporation shall establish procedures for minimizing any losses that may be experienced for the foregoing

reasons and shall exercise and exhaust all available options in such procedures prior to amounts being written off to this account.

(c)(1) The corporation may require any retailer to post an appropriate bond, as determined by the corporation, using an insurance company acceptable to the corporation; provided that after one (1) full fiscal year of lottery operations the amount of any such bond shall not exceed the applicable district sales average of lottery tickets for two (2) quarterly billing periods.

(2) In its discretion, the corporation may allow a retailer to deposit and maintain with the corporation securities that are interest bearing or accruing. Securities eligible under this paragraph shall be limited to:

(A) Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States;

(B) United States bonds, notes, and bills for which the full faith and credit of the United States is pledged for the payment of principal and interest;

(C) Federal agency securities by an agency or instrumentality of the United States government.

(3) Such securities shall be held in trust in the name of the corporation.

Section 4-51-119. (a) Any retail contract executed by the corporation pursuant to this chapter shall specify the reasons for which a contract may be canceled, suspended, revoked, or terminated by the corporation, which reasons shall include, but not be limited to:

(1) Commission of a violation of this chapter, a regulation, or a policy or procedure of the corporation;

(2) Commission of a violation of Title 39, Chapter 17, Part 6, relative to lottery offenses;

(3) Failure to accurately or timely account for lottery tickets, lottery games, revenues, or prizes as required by the corporation;

(4) Commission of any fraud, deceit, or misrepresentation;

(5) Insufficient sales;

(6) Conduct prejudicial to public confidence in the lottery;

(7) The retailer filing for or being placed in bankruptcy or receivership;

(8) Any material change as determined in the sole discretion of the corporation in any matter considered by the corporation in executing the contract with the retailer; or

(9) Failure to meet any of the objective criteria established by the corporation pursuant to this chapter.

(b) If, in the discretion of the chief executive officer, or such officer's designee, cancellation, denial, revocation, suspension or rejection of renewal of a lottery retailer contract is in the best interest of the lottery, the public welfare or the State of Tennessee, the chief executive officer, or such officer's designee, may cancel, suspend, revoke or terminate, after notice and a right to a hearing, any contract issued pursuant to this chapter. Such contract may, however, be temporarily suspended by the chief executive officer or his designee without prior notice pending any prosecution, hearing or investigation, whether by a third party or by the chief executive office. A contract may be suspended, revoked or terminated by the chief executive officer, or such officer's designee, for any one (1) or more of the reasons enumerated in this section. Any hearing held shall be conducted by the chief executive officer or such officer's designee. A party to the contract aggrieved by the decision of the chief executive officer, or such officer's designee, may appeal the adverse decision to the board. Such appeal shall be pursuant to the regulations, policies and procedures set by the board and is not subject to the Tennessee Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

Section 4-51-120. (a) All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the corporation either directly or through the corporation's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of the sale of any lottery products, net of allowable sales commissions and credit for lottery prizes sold to or paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand.

(b) Pursuant to § 4-51-105(a)(3), the corporation shall adopt and enforce policies designed to safeguard and limit the opportunity for loss of lottery proceeds which are not in the possession of the corporation. Such policies may include, but are not limited to:

(1) Requirements governing financial institutions into which retailers shall deposit lottery proceeds;

(2) Requirements for the establishment of separate accounts for the deposit of lottery proceeds by retailers;

(3) The timing of deposit of lottery proceeds by retailers; and

(4) The timing of withdrawal of funds from retailer accounts by the corporation.

Any such policies, and any revisions thereto, shall be filed with the state funding board.

(c) Notwithstanding any provision of law to the contrary, whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer becomes insolvent or dies insolvent, the proceeds due the corporation from such person or his estate shall have preference over all debts or demands.

Section 4-51-121. If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state-operated or state-managed lottery, only the compensation received by the lottery retailer from the corporation may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

Section 4-51-122. (a) In accordance with Title 39, Chapter 17, Part 6:

(1) No person shall sell a ticket or share at a price other than established by the corporation unless authorized in writing by the chief executive officer.

(2) No person, other than a duly certified lottery retailer, shall sell lottery tickets or shares.

(3) This subsection shall not be construed to prevent a person who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares to another.

(4) This subsection shall not be construed to prevent a merchant who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares as a means of promoting goods or services to customers or prospective customers subject to prior approval by the corporation.

(5) This subsection shall not be construed to prohibit the corporation from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

(b) No lottery retailer shall sell a lottery ticket or share except from the locations listed in the retailer's contract and as evidenced by the retailer's certificate of authorization unless the corporation authorizes in writing any temporary location not listed in the retailer's contract.

(c) In accordance with Title 39, Chapter 17, Part 6, no lottery tickets or shares shall be sold to persons under eighteen (18) years of age; provided that nothing in this chapter or Title 39, Chapter 17, Part 6, prohibits the purchase of a lottery ticket or share by a person eighteen (18) years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment of proceeds of any lottery prize to an adult member of the person's family or a legal representative of the person on behalf of such person.

Section 4-51-123. (a) Except as otherwise provided in Part 2 of this chapter, attachments, garnishments, or executions authorized and issued pursuant to law

shall be withheld from proceeds of any lottery prize if timely served upon the corporation.

(b) Subsection (a) shall not apply to a retailer.

(c) The corporation shall adopt regulations, policies, and procedures to establish a system of verifying the validity of lottery tickets or shares claimed to win prizes and to effect payment of such prizes, except that:

(1) No prize, any portion of a prize, or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this section to the contrary, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;

(2) No prize shall be paid:

(A) Arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the corporation within applicable deadlines;

(B) Lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or

(C) Not in compliance with such additional specific regulations and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved.

(3) No particular prize in any lottery game shall be paid more than once and, in the event of a determination that more than one (1) claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize; and

(4)(A) A holder of a winning cash ticket or share from any lottery game conducted by a drawing shall claim a cash prize within one (1) year after the drawing in which the cash prize was won. If a multistate or multisovereign lottery game requires, by rule or regulation, a period of time less than one (1) year for redemption of a winning ticket, such period shall apply for that lottery game.

(B) In any Tennessee lottery game in which the player may determine instantly if he has won or lost, such player shall claim a cash prize within ninety (90) days, or for a multistate or multisovereign lottery game within one hundred eighty (180) days, after the end of the lottery game.

(C) If a valid claim is not made for a cash prize within the applicable period, the cash prize shall constitute an unclaimed prize for purposes of this section.

(d) No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of this section.

(e) The corporation is discharged of all liability upon payment of a prize.

(f) No ticket or share shall be purchased by and no prize shall be paid to:

(1)(A) Any member of the board of directors;

(B) Any officer or employee of the corporation; or

(C) To any member of the immediate family of any person described in subdivisions (1)(A) or (B) residing as a member of the same household in the principal place of residence of any such person.

(2) No ticket or share shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor, or to any member of the immediate family residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

(g) No lottery game utilizing an electronic or mechanical machine may use a machine which:

(1) Dispenses coins or currency; or

(2) Accepts debit or credit cards.

(h) Unclaimed prize money shall not constitute net lottery proceeds and, for the purposes of § 4-51-111(a), shall not be distributed as lottery proceeds. The provisions of Title 66, Chapter 29 shall not apply to unclaimed prize money of the corporation. At the end of each fiscal year, fifty percent (50%) of any unclaimed prize money shall be added to the pool from which future prizes are to be awarded or used for special prize promotions and fifty percent (50%) of any unclaimed prize money shall be deposited in the after school programs special account created in accordance with § 4-51-111.

Section 4-51-124. (a) Except as otherwise provided in this chapter, the corporation is subject to the provisions of Title 8, Chapter 44, Part 1 and Title 10, Chapter 7, Part 5. The corporation is specifically authorized to determine which information relating to the operation of the lottery is confidential. Such confidential information shall include, but is not limited to:

- (1) Trade secrets;
- (2) Security measures, systems, or procedures;
- (3) Security reports;
- (4) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the corporation to contract for goods or services on favorable terms;
- (5) Employee personnel information unrelated to compensation, duties, qualifications or responsibilities;
- (6) Information obtained pursuant to investigations which is otherwise confidential; and
- (7) Identifying information obtained from prize winners, including, but not limited to, home and work addresses, telephone numbers, social security number and any other information that could reasonably be used to locate the whereabouts of an individual; provided that:

(A) The corporation shall disclose any relevant information to a claimant agency pursuant to Part 2 of this chapter necessary to establish or enforce a claim against a debtor as defined in Part 2 of this chapter;

(B) The corporation may disclose a lottery prize winner's name, home state, hometown and, if authorized by the prize winner, any other information for marketing, advertising or promotional purposes; and

(C) The corporation shall disclose any information not subject to the provisions of subdivisions (1)-(4) or (6), that is otherwise necessary to assist any federal, state or local entity in the performance of its statutory or regulatory duties.

Information deemed confidential pursuant to this section is exempt from the provisions of § 10-7-503. Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this section are exempt from the provision of Title 8, Chapter 44, Part 1.

(b) The corporation shall perform or cause to be performed full criminal history record checks prior to the execution of any vendor contract.

(c) The corporation, or its authorized agent, shall:

(1) Conduct criminal history record checks and credit investigations on all potential retailers; provided that the corporation, or its authorized agent, may conduct or cause to be conducted criminal history record checks and credit investigations on employees of potential and authorized lottery retailers at any time;

(2) Supervise ticket or share validation and lottery drawings;

(3) Inspect, at times determined solely by the corporation, the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract;

(4) Report any suspected violations of this chapter to the appropriate district attorney or the attorney general and reporter and to any law enforcement agencies having jurisdiction over the violation; and

(5) Upon request, provide assistance to any district attorney, the attorney general and reporter or a law enforcement agency investigating a violation of this Chapter or Title 39, Chapter 17, Parts 5 or 6.

Section 4-51-125. (a) The corporation may enter into intelligence sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

(b) Records, documents, and information in the possession of the corporation received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to the provisions of §10-7-503 and shall not be released under any condition without the permission of the person or agency providing the record or information.

Section 4-51-126. (a)(1) All major procurement contracts shall be competitively bid pursuant to policies and procedures adopted by the board pursuant to § 4-51-104(c)(4) and approved by the board of standards pursuant to subdivision (2). Such policies and procedures shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation and the best service and products for the public. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product.

(2)(A) Policies and procedures concerning competitive bidding of major procurement contracts for on-line and instant ticket lottery vendors and for advertising contracts estimated to be valued in excess of five hundred thousand dollars (\$500,000) shall be filed with the board of standards for review in accordance with subdivision (2)(B).

(B) Notwithstanding any provision of Title 12, Chapter 3, Part 4 to the contrary, the board of standards shall review and approve, or disapprove, such policies and procedures within five (5) working days after submission.

(i) Upon approval, such policies and procedures shall become effective immediately and shall remain effective until amended, altered or repealed.

(ii) If not approved, the board of standards shall file a statement with the corporation stating its basis for non-approval. The corporation shall make any necessary revisions and file such revised policies and procedures with the board of standards for review and approval in a manner consistent with the provisions of this subdivision.

(iii) If the board of standards neither approves nor disapproves of such policies and procedures within five (5) working days, such policies and procedures shall become effective after the tenth calendar day and shall remain effective until amended, altered or repealed.

(C) Any amendment to such policies and procedures shall be filed with the board of standards for review and approval in a manner consistent with the provisions of this subdivision.

(b) In any bidding process, the corporation may administer its own bidding and procurement or may utilize the services of the Department of General Services or other state agency or subdivision thereof.

(c)(1) There shall be a lottery procurement panel consisting of the secretary of state, state treasurer and the Commissioner of Finance and Administration. The Commissioner of Finance and Administration shall serve as chair of the panel, and the Department of Finance and Administration shall provide staff support to the panel as needed.

(2) Prior to issuance of procurement documents for major procurement contracts regarding on-line and instant ticket lottery vendors, and any advertising contract estimated to be valued in excess of five hundred thousand dollars (\$500,000), the corporation shall file such procurement documents with the lottery procurement panel. Such panel may individually, or collectively, review the procurement document and submit comments, if any, to the corporation within five (5) working days after submission to the panel for review. After receiving comments from the panel and, in any event, after the tenth calendar day after submission to the panel for review, the corporation may:

(A) Revise such procurement document based on the comments of the panel. Any revised procurement document based on the comments of the panel shall be filed with the panel prior to issuance; or

(B) Revise such procurement document in a manner not based on the comments of the panel. Any revised procurement document not based on the comments of the panel shall be filed with the panel and reviewed by the panel in accordance with the provisions of this subsection prior to issuance; or

(C) Issue the procurement document without revision. Notwithstanding any provision of this subdivision to the contrary, the corporation may revise such procurement document prior to the fifth working day provided that the revised procurement document is filed with the panel and reviewed in accordance with the provisions of this subsection prior to issuance.

(3) Comments of the procurement panel, or failure of the corporation to modify procurement documents based on such comments, shall not confer any rights, or constitute a basis, for a challenge by a vendor to the procurement process.

(d) If the corporation determines that the requirement for competitive bidding does not apply to a major procurement contract regarding an on-line or instant ticket lottery vendor because such vendor is a single vendor having exclusive rights to offer a particular service or product, then, immediately upon making such a determination, the corporation shall file with the panel a notice of its intent not to require competitive bidding and a statement of reasons supporting that determination.

(e) Executed copies of major procurement contracts regarding on-line and instant ticket lottery vendors, and any advertising contract valued in excess of five hundred thousand dollars (\$500,000), shall be filed with the lottery procurement panel within five (5) working days of execution.

(f) Procurement documents, contracts and any other documentation, or portions thereof, filed with the lottery procurement panel by the corporation shall be subject to the provisions of § 4-51-124. Such information shall retain its confidentiality, if any, and shall only be used by the panel in the performance of its official duties.

(g)(1) Except for information deemed confidential pursuant to the provisions of § 4-51-124, major procurement contracts entered into by the corporation regarding on-line and instant ticket lottery vendors, and any advertising contract valued in excess of five hundred thousand dollars (\$500,000), shall be posted, via link to "Major Procurement Contracts", on the web page of the Tennessee Education Lottery Corporation. The corporation may post additional major procurement contracts.

(2) The corporation shall post all major procurement contract procurement documents, via link to "Major Procurement Opportunities", on the web page of the Tennessee Education Lottery Corporation.

Section 4-51-127. (a) Any retailer, vendor, or applicant for a retailer or vendor contract aggrieved by a final action of the board may appeal that decision to the chancery court of Davidson County.

(b) The chancery court of Davidson County shall hear appeals from decisions of the board and based upon the record of the proceedings before the board may reverse the decision of the board only if the appellant proves the decision to be:

- (1) Clearly erroneous;
- (2) Arbitrary and capricious;
- (3) Procured by fraud;
- (4) A result of substantial misconduct by the board; or

(5) Contrary to the United States Constitution or the Constitution of Tennessee or the provisions of this chapter.

(c) The chancery court may remand an appeal to the board to conduct further hearings.

(d) Any person who appeals the award of a major procurement contract for the supply of a lottery ticket system, share system, or an on-line or other mechanical or electronic system shall be liable for all costs of appeal and defense in the event the appeal is denied or the contract award is upheld. Costs of appeal and defense shall include, but is not limited to, court costs, bond and attorney's fees; provided that, upon motion of the corporation, such costs shall also include any loss of income to the corporation resulting from institution of the appeal if the court finds the appeal to have been frivolous.

Section 4-51-128. (a) The corporation may borrow, or accept and expend, in accordance with the provisions of this chapter, such moneys as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including the payment of the initial expenses of initiation, administration, and operation of the corporation and the lottery, and other lottery related purposes, including the payment of the initial expenses of initiation, administration, and operation of educational programs and purposes.

(b) The corporation shall be self-sustaining and self-funded. Moneys in the state general fund shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the corporation operating account.

(c) The corporation may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The corporation may make procurements which integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness and integrity in the operation and administration of the lottery and the objectives of raising net lottery proceeds for the benefit of educational programs and purposes.

Section 4-51-129. To ensure the financial integrity of the lottery, the corporation, through its board of directors, shall:

(1) Submit quarterly and annual reports to the Governor, the select committee on the Tennessee Education Lottery Corporation created pursuant to Section 3 of this act, the comptroller of the treasury and the state treasurer, disclosing the total lottery revenues, prize disbursements, operating expenses, and administrative expenses of the corporation during the reporting period. The annual report shall additionally describe the organizational structure of the corporation and summarize the functions performed by each organizational division within the corporation;

(2) Adopt a system of internal audits; all audits performed by the internal audit staff of the corporation shall be conducted in accordance with the standards established by the comptroller of the treasury pursuant to § 4-3-304(9);

(3) Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the corporation;

(4)(A) Be subject to audits by the comptroller of the treasury in accordance with § 8-4-109. Such audits may be undertaken at anytime at the sole discretion of the comptroller; provided that the comptroller shall conduct, or contract for, an annual financial audit of the corporation. The comptroller of the treasury, or the comptroller's designated representatives, shall have access to the corporation's books, records and accounts whenever deemed necessary by such office. The comptroller of the treasury, or the comptroller's designated representatives, shall have access to any and all of the records of the corporation's distributing agencies, lottery vendors or lottery retailers that relate to the operation, administration or promotion of the lottery. Except as provided in subdivision (B), the corporation may, with prior notice to the comptroller of the treasury, contract with a licensed independent certified public accountant or firm for additional audits concerning any phase of the operations of the corporation; provided that the licensed certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract. The corporation shall be responsible, as an operating expense, for reimbursement of the costs of audits prepared by the comptroller of the treasury and for the payment of fees for audits prepared by a licensed independent certified public accountant or firms. All audits shall be prepared in accordance with generally accepted governmental auditing standards.

(B) The corporation may, with prior approval of the comptroller of the treasury, contract with a licensed independent certified public accountant or firm for an additional annual financial audit of the corporation; provided that the licensed certified public accountant or firm shall have no financial interest in any vendor with whom the

corporation is under contract. If a licensed independent certified public accountant or firm is employed pursuant to the provisions of this subdivision, the audit contract between the corporation and the licensed independent certified public accountant or firm shall be on contract forms prescribed by the comptroller of the treasury. The corporation shall be responsible, as an operating expense, for the payment of fees for audits prepared pursuant to the provisions of this subdivision. Such audits shall be prepared in accordance with generally accepted governmental auditing standards and shall meet minimum audit standards prescribed by the comptroller of the treasury.

(C) A copy of any audit performed by the comptroller of the treasury or any independent certified public accountant or firm shall be transmitted to the Governor, the Speaker of the Senate, the Speaker of the House of Representatives, the select committee chairs, the state treasurer and, if applicable, the comptroller of the treasury;

(5) Submit to the Department of Finance and Administration, the office of legislative budget analysis and the comptroller of the treasury by June 30th of each year a copy of the annual operating budget for the corporation for the next fiscal year. This annual operating budget shall be approved by the board and be on such forms as prescribed by the Department of Finance and Administration;

(6) For informational purposes only, submit to the Department of Finance and Administration on September 1 of each year a proposed operating budget for the corporation for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net lottery proceeds to be deposited into the lottery for education account during the succeeding fiscal year. This budget shall be on such forms as prescribed by the Department of Finance and Administration; and

(7) Adopt the same fiscal year as that used by state government.

Section 4-51-130. (a) No member of the General Assembly, the Governor, a member of the Governor's cabinet or a cabinet-level member of the Governor's staff shall serve as a director or employee of the corporation while holding such position in state government.

(b) No member of the General Assembly, the Governor, a member of the Governor's cabinet or a cabinet-level member of the Governor's staff shall serve as an employee, or otherwise receive compensation or other benefit for consultation or services rendered directly, or indirectly through a partnership, corporation or other business entity, from an on-line or instant ticket lottery vendor of the Tennessee Education Lottery Corporation or an on-line or instant ticket lottery vendor seeking to become a vendor of the Tennessee education lottery corporation, while holding such position in state government. Nothing in this subsection shall be construed as prohibiting continued employment of such official by a partnership, corporation or other business entity receiving compensation from an on-line or instant ticket lottery vendor if:

(1) Such official has no direct or indirect contact with an on-line or instant ticket lottery vendor; and

(2) Such official does not share in any compensation or any benefit received from an on-line or instant ticket lottery vendor.

(c) The provisions of this section shall not apply to any employee of the corporation or of an on-line or instant ticket lottery vendor who, subsequent to such employment, seeks election to the General Assembly or the office of Governor. No provision of this subsection shall be construed as prohibiting such person from continuing in such employment during such person's term in office as a member of the General Assembly.

(d) The provisions of this section also apply to any children residing in the primary residence and the spouse of any member of the General Assembly, the Governor, a member of the Governor's cabinet or a cabinet-level member of the Governor's staff.

(e) A violation of this section is a Class C misdemeanor punishable only by a fine of one thousand dollars (\$1,000).

Section 4-51-131. The General Assembly, by enacting this Chapter and Title 39, Chapter 17, Part 6, intends to preempt any other regulation of the area covered by this Chapter and Title 39, Chapter 17, Part 6. No political subdivision or agency may enact or enforce a law, ordinance, resolution or regulation that regulates or prohibits any conduct in the area covered by this chapter and Title 39, Chapter 17, Part 6.

Section 4-51-201. The purpose of this part is to establish a policy and to provide a system whereby all claimant agencies of this state in conjunction with the corporation shall cooperate in identifying debtors who owe money to the state through its various claimant agencies or to persons on whose behalf the state and its claimant agencies act and who qualify for prizes under Part 1 of this chapter from the corporation. It is also the purpose of this part to establish procedures for setting off against any such prize the sum of any debt owed to the state or to persons on whose behalf the state and its claimant agencies act. It is the intent of the General Assembly that this part be liberally construed to effectuate these purposes.

Section 4-51-202. As used in this part unless the context otherwise requires:

(1) "Claimant agency" means any state agency, department, board, bureau, commission or authority to which an individual owes a debt or which acts on behalf of an individual to collect a debt.

(2) "Debt" means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort or operation of law, regardless of whether there is an outstanding judgment for the sum or any sum which is due and owing any person and is enforceable by the state or any of the claimant agencies of the state. "Debt" specifically includes, but is not limited to, uncollected amounts owed by any person due to judgments for overdue child support as provided by Title 36, Chapter 5.

(3) "Debtor" means any individual owing money or having a delinquent account with any claimant agency, which obligation has not been adjudicated as satisfied by court order, set aside by court order or discharged in bankruptcy. "Debtor" specifically includes, but is not limited to, all persons who are required by any order to pay child support and whose payments are overdue as provided by Title 36, Chapter 5, and which payments have become judgments by operation of law pursuant to § 36-5-101(a)(5), or by law in any other state or territory, or by judgment of a court in this or any other state or territory.

(4) "Prize" means the proceeds of any lottery prize awarded under Part 1 of this chapter.

Section 4-51-203. The collection remedy authorized by this part is in addition to and not in substitution for any other remedy available by law.

Section 4-51-204. (a)(1) Any claimant agency may submit to the corporation a list of the names of all persons owing debts in excess of one hundred dollars (\$100) to such claimant agency or to persons on whose behalf the claimant agency is acting. The full amount of the debt shall be collectable from any lottery winnings without regard to limitations on the amounts that may be collectable in increments through garnishment or other proceedings. Such list, filed by paper or by electronic means, shall constitute a valid lien upon and claim of lien against the lottery winnings of any debtor named in such list. The list shall contain the names of the debtors, their social security numbers, if available, and any other information that would assist the corporation in identifying the debtors named in the list.

(2) The corporation may establish with any claimant agency, which has such capability, an automated process utilizing the corporation's and the claimant agency's databases to effectuate the provisions of this part, including, but not limited to, a computerized matching process.

(b)(1) The corporation is authorized and directed to withhold any winnings subject to the lien created by this section and send notice to the winner by certified mail, return receipt requested, of such action and the reason the winnings were withheld. However, if the winner appears and claims winnings in person, the corporation shall notify the winner at that time by hand delivery of such action.

(2) If the debtor does not protest the withholding of such funds in writing within thirty (30) days of such notice, the corporation shall pay the funds over to the claimant agency. Except as provided in subdivision (3), if the debtor protests the withholding of such funds within thirty (30) days of such notice, the corporation shall file an action in interpleader in the circuit court of the county in which the debtor resides if the debtor resides in Tennessee. If the debtor does not reside in Tennessee, such action shall be filed in Davidson County. The corporation shall pay the disputed sum into the clerk of the court and give notice to the claimant agency and debtor of the initiation of such action.

(3) For all persons who are debtors of the Department of Human Services due to overdue child support, the corporation shall withhold all winnings subject to administrative proceedings in accordance with the provisions of Title 36, Chapter 5 and the rules of the department.

(c) The liens created by this section shall rank among themselves as follows:

(1) Taxes due the state;

(2) Delinquent child support; and

(3) All other judgments and liens in order of the date entered or perfected.

(d) The corporation shall not be required to deduct claimed debts from prizes paid out by retailers or entities other than the corporation.

(e) Any list of debt provided pursuant to this part shall be provided periodically as the corporation shall provide by rules and regulations and the corporation shall not be obligated to retain such lists or deduct debts appearing on such lists beyond period determined by such rules and regulations; provided that lists provided to the corporation through an automatic data match process shall be maintained on an ongoing basis to enable the continuous monitoring and withholding of lottery winnings for debts due any claimant agency.

(f) Pursuant to § 4-51-105(a)(3), the corporation is authorized to prescribe forms and promulgate rules and regulations which it deems necessary to carry out the provisions of this part.

(g) The corporation and any claimant agency shall incur no civil or criminal liability for good faith adherence to the provisions of this section.

(h) The claimant agency shall pay the corporation for all costs incurred by the corporation in setting off debts in the manner provided in this part.

Section 4-51-205. (a) Pursuant to § 4-51-124, the corporation shall provide to a claimant agency all information necessary to accomplish and effectuate the intent of this part.

(b) The information obtained by a claimant agency from the corporation in accordance with this part shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. Any employee or prior employee of any claimant agency who discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to a civil penalty of fifty dollars (\$50.00) which shall be collected by the claimant agency as otherwise provided by law.

Section 4-51-206. The provisions of this part shall only apply to prizes of six hundred dollars (\$600) or more.

SECTION 3. (a) There is hereby created a special joint committee of the General Assembly to be known as the select committee on the Tennessee Education Lottery Corporation.

(b) The select committee shall be composed of eighteen (18) members. Nine (9) senators shall be appointed by the Speaker of the Senate, provided that: at least three (3) of whom shall be appointed from the membership of the State and Local Government Committee, one (1) of whom shall be the chair; at least two (2) of whom shall be appointed from the membership of the Education Committee, one (1) of whom shall be the chair; and, at least one (1) of whom shall be appointed from the membership of the Finance, Ways and Means Committee. Nine (9) representatives shall be appointed by the Speaker of the House of Representatives, provided that: at least three (3) of whom shall be appointed from the membership of the State and Local Government committee, one (1) of whom shall be the chair; at least two (2) of whom shall be appointed from the membership of the Education Committee, one (1) of whom shall be the chair; and, at least one (1) of whom shall be appointed from the membership of the Finance, Ways and Means Committee. The chairs of the Senate and House State and Local Government Committees shall serve as co-chairs of the select committee. During the organizational session of each General Assembly, the respective speakers shall appoint or reappoint members to serve on the select committee on the Tennessee education lottery corporation. Any vacancies occurring on the select committee, between organizational sessions, shall be filled by the respective speakers in accordance with the guidelines established in this subsection.

(c) The select committee, at the call of the co-chairs, shall periodically inquire into and review the operations of the Tennessee Education Lottery Corporation as well as periodically review and evaluate the success with which the corporation is accomplishing its statutory duties and functions as provided in this act and shall inquire into and review the educational programs and purposes otherwise provided by law and established in accordance with the provisions of Article XI, Section 5 of the Constitution of Tennessee.

(d) The select committee may conduct, or cause to be conducted, any independent audit or investigation of the corporation it deems necessary.

(e) The Tennessee Education Lottery Corporation shall provide the select committee, not later than December 1 of each year, with a complete report of the level of participation of minority businesses in all retail and major procurement contracts awarded by the corporation.

(f) Members of the select committee shall be entitled to reimbursement for their expenses in attending meetings of the committee or any subcommittee thereof at the same rates and in the same manner as when attending the General Assembly.

SECTION 4. (a) The Tennessee Education Lottery Corporation shall be eligible to be a participating employer in the Tennessee consolidated retirement system upon:

(1) Passage of a resolution by the corporation's board of directors authorizing an actuarial study; and

(2) Passage of a resolution by the corporation's board of directors authorizing such participation and accepting the liability as a result of the participation by its full-time employees.

(b) The employees of the corporation shall make the same contributions, participate in the same manner, and shall be eligible for the same benefits as employees of local governments participating in the retirement system under this part.

(c) The employees shall be entitled to credit for prior service as approved by the board of directors of the corporation under the same provisions which apply to employees of local governments.

(d) The retirement system shall not be liable for the payment of retirement allowances or other payments on account of employees of the corporation or their beneficiaries for which reserves have not been previously created from funds contributed by the corporation, its employees or the corporation and its employees.

(e) In case of the withdrawal of the corporation as a participating employer, the benefits of the members and beneficiaries shall be determined in accordance with the provisions of § 8-35-211.

(f) It is the legislative intent that the state shall realize no increased cost as a result of this section. All costs associated with retirement coverage, including administrative costs, shall be the responsibility of the corporation.

SECTION 5. Tennessee Code Annotated, Section 39-17-505, is amended by deleting subsection (a) and by substituting instead the following:

(a)(1) A person commits an offense who knowingly owns, manufactures, possesses, buys, sells, rents, leases, stores, repairs, transports, prints or makes any gambling device or record.

(2) It is not an offense for a person to own or possess in this state a lottery ticket originating from a state in which a lottery is lawful, if such ticket is not owned or possessed for the purpose of resale.

(3) It is not an offense for a person to knowingly own, manufacture, possess, buy, sell, rent, lease, store, repair, transport, print or make any gambling device or record if such device or record is owned, manufactured, possessed, bought, sold, rented, leased, stored, repaired, transported, printed or made pursuant to the provisions of Title 4, Chapter 51, Part 1 and Title 39 Chapter 17, Part 6.

SECTION 6. Tennessee Code Annotated, Section 39-17-506, is amended by deleting subsection (a) in its entirety and by substituting instead the following:

(a) A person commits an offense who knowingly makes or aids in the making of any lottery. For the purposes of this section, "makes or aids in the making of any lottery" does not include:

(1) Ownership or possession in this state of a lottery ticket originating from another state in which a lottery is lawful, if such ticket is not owned or possessed for the purpose of resale; provided that nothing in this subdivision shall be construed as preventing the sale of lottery tickets or shares under the authority of the Tennessee education lottery corporation; or

(2) The Tennessee education lottery operated pursuant to Title 4, Chapter 51, Part 1.

SECTION 7. Tennessee Code Annotated, Section 39-17-506(b), is amended by deleting the language "For the purposes of this section, 'making a lottery' includes" and by substituting instead the language "For the purposes of this section, 'makes or aids in the making of any lottery' includes".

SECTION 8. Tennessee Code Annotated, Title 39, Chapter 17, is amended by adding the following language as a new, appropriately designated part:

Section 39-17-601. As used in this part, unless the context otherwise requires:

(1) "Corporation" means the Tennessee Education Lottery Corporation or its successor;

(2) "Proof of age" means a driver license or other generally accepted means of identification that describes the individual as eighteen (18) years of age or older, contains a photograph or other likeness of the individual, and appears on its face to be valid;

(3) "State lottery game" means any game of chance approved and operated pursuant to Title 4, Chapter 51, Part 1, including, but not limited to, instant tickets, on-line games and games using mechanical or electronic devices;

(4) "State lottery retailer" means:

(A) A person who sells state lottery tickets or shares on behalf of the corporation pursuant to a contract or an employee or agent of such person; or

(B) The corporation or an employee or agent of the corporation.

(5) "State lottery ticket or share" means a lottery ticket or share issued by, or under the authority of, the corporation for evidence of participation in a state lottery game.

Section 39-17-602. (a) It is an offense for any person, including a state lottery retailer, to sell a state lottery ticket or share to any person under eighteen (18) years of age.

(b) It is an offense for a state lottery retailer to allow a person under eighteen (18) years of age to purchase a state lottery ticket or share from an electronic or mechanical device.

(c) It is an offense for a state lottery retailer to allow a person under eighteen (18) years of age to play any state lottery game.

(d) It is an offense for a state lottery retailer to redeem a state lottery ticket or share for any person under eighteen (18) years of age.

(e) A person's first violation of any provision of this section is a Class B misdemeanor. A person's second or subsequent violation of any provision of this section is a Class A misdemeanor.

(f) It is an affirmative defense to prosecution under this section, which must be proven by a preponderance of the evidence, that the state lottery retailer reasonably and in good faith relied upon representation of proof of age in making, or allowing, the sale or redemption.

Section 39-17-603. (a) It is a delinquent act for a person under eighteen (18) years of age to purchase, or attempt to purchase, a state lottery ticket or share.

(b) It is a delinquent act for a person under eighteen (18) years of age to redeem, or attempt to redeem, a state lottery ticket or share.

(c) A violation of this section is punishable by a fine not to exceed fifty dollars (\$50.00) or, in the discretion of the court, community service work not less than twenty (20) hours nor more than fifty (50) hours.

(d) The provisions of this section shall not be construed as prohibiting any person under eighteen (18) years of age from handling or transporting state lottery tickets or shares as a part of and in the course of such person's employment; provided that the person is under the supervision of another employee who is at least twenty-one (21) years of age.

Section 39-17-604. (a) It is an offense for a person, other than a state lottery retailer, to sell a state lottery ticket or share.

(b) It is an offense for a person to sell a state lottery ticket or share at a price other than face value.

(c) It is an offense for a state lottery retailer to sell a state lottery ticket or share at a location other than the location listed on such retailer's certificate of authorization.

(d) A violation of this section is a Class A misdemeanor.

(e) It is an exception to the application of this section that:

(1) A state lottery retailer, with written pre-authorization from the chief executive officer of the corporation, sold state lottery tickets or shares at a price other than established by the corporation; and

(2) A state lottery retailer, with written pre-authorization from the chief executive officer of the corporation, sold state lottery tickets or shares at a temporary location.

(f) This section shall not be construed as preventing the corporation from giving or selling state lottery tickets or shares at any price or at any location.

Section 39-17-605. (a) It is an offense for a state lottery retailer to fail to display a certificate of authorization pursuant to § 4-51-115(d) at each location where such retailer sells state lottery tickets or shares.

(b) A violation of this section is a Class C misdemeanor.

Section 39-17-606. (a) Each state lottery retailer shall display, in a prominent place at the location where such retailer sells lottery tickets or shares, a sign, at least seventeen inches (17") high and twenty-two inches (22") wide, stating:

ATTENTION: STATE LAW STRICTLY PROHIBITS THE SALE OF LOTTERY TICKETS TO PERSONS UNDER THE AGE OF EIGHTEEN (18) YEARS; PROOF OF AGE MAY BE REQUIRED FOR PURCHASE.

* * *

ATENCION: POR LEY DEL ESTADO DE TENNESSEE ES ESTRUCTAMENTE PROHIBIDO VENDER BOLETAS DE LOTERIA A PERSONAS MENORES DE DIECIOCHO AÑOS; PRUEBA DE EDAD PUEDE SER REQUERIDA PARA COMPRARLAS.

(b) A violation of this section is a Class C misdemeanor.

Section 39-17-607. (a) It is an offense for any person to falsely make, alter, forge, pass or counterfeit a state lottery ticket with the intent to defraud.

(b) It is an offense for any person to knowingly influence, or attempt to influence, the winning of a prize through the use of coercion, fraud, deception or tampering with lottery equipment or materials.

(c)(1) A violation of subsection (a) is a Class D felony provided that the maximum fine shall be fifty thousand dollars (\$50,000).

(2) A violation of subsection (b) is a Class C felony provided that the maximum fine shall be one hundred thousand dollars (\$100,000).

Section 39-17-608. (a) It is an offense for any person to knowingly:

(1) Make a material false statement in any application to the corporation for a license or proposal to conduct lottery activities; or

(2) Make a material false entry in any book or record which is compiled for the corporation, maintained for the corporation or submitted to the corporation.

(b) A violation of this section is a Class D felony provided that the maximum fine shall be twenty-five thousand dollars (\$25,000) or the dollar amount of the false entry or statement, whichever is greater.

Section 39-17-609. All terminals, tickets, shares and other devices imported, transported or distributed under the authority of the Tennessee Education Lottery Corporation are exempt from the provisions of 15 U.S.C. § 1172.

Section 39-17-610. The General Assembly, by enacting this part, intends to preempt any other regulation of the area covered by this part and Title 4, Chapter 51. No political subdivision or agency may enact or enforce a law, ordinance, resolution or regulation that regulates or prohibits any conduct in the area covered by this part and Title 4, Chapter 51.

SECTION 9. Tennessee Code Annotated, Section 39-15-413(a), is amended by inserting the language "39-17-602, 39-17-603," between the language "39-17-427," and the language "39-17-901".

SECTION 10. Tennessee Code Annotated, Section 39-15-413(a), is amended by inserting the language ", state lottery ticket or share" between the language "illegal drugs" and "or any other prohibited material".

SECTION 11. Tennessee Code Annotated, is amended by adding the following language as a new, appropriately designated section:

Section ___. Participation in any activity which is conducted pursuant to law and authorized by the provisions of Article XI, Section 5 of the Constitution of Tennessee shall not be construed as gambling for the purposes of § 8-47-101.

SECTION 12. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.

/s/ Senator William Clabough
/s/ Senator Stephen Cohen
/s/ Senator Ward Crutchfield
/s/ Senator Rosalind Kurita
/s/ Senator Jeff Miller

/s/ Representative Jamie Hagood
/s/ Representative Ulysses Jones
/s/ Representative Kim McMillan
/s/ Representative Larry Miller
/s/ Representative Chris Newton

Senator Cohen moved that the Conference Committee Report on **Senate Bill No. 1/House Bill No. 1** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 27
Noes 6

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Senators voting aye were: Beavers, Burchett, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

Senators voting no were: Atchley, Bryson, Burks, Henry, Herron and McNally--6.

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that the rules be suspended for the purpose of making and considering Local Bill Consent Calendar No. 3 consisting of the following bills: **Senate Bills Nos. 2047 and 2048**, which motion prevailed.

LOCAL BILL
CONSENT CALENDAR NO. 3

Senate Bill No. 2047 -- Hamilton County -- Subject to local approval, revises Hamilton County Department of Education Insurance and Pension Fund Employees' Retirement Act. Amends Chapter 689 of the Private Acts of 1937; as amended.

Senate Bill No. 2048 -- Hamilton County -- Subject to local approval, revises Hamilton County Employees' Retirement Act. Amends Chapter 557 of the Private Acts of 1939; as amended.

Senator Crowe moved that all Senate Bills be passed on third and final consideration, which motion prevailed by the following vote:

Ayes 32
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--32.

A motion to reconsider was tabled.

SENATE
MESSAGE CALENDAR #3

Pursuant to Rule 44, notice has been given on the following bills and they have been set on the Message Calendar for Thursday, May 29, 2003: **House Bills Nos. 1023, 1512 and 1526; and Senate Bills Nos. 518, 899, 1028, 1472, 952 and 618.**

MESSAGE CALENDAR NO. 3

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1023 -- Traffic Safety -- Requires operators to move left, if safe, when approaching emergency vehicle, violation punishable as Class C misdemeanor. Amends TCA Title 55, Chapter 8, Part 1.

Senator Cooper moved to lift from the table a motion to reconsider on **House Bill No. 1023**, which motion prevailed.

Senator Cooper moved that the Senate reconsider its action in passing **House Bill No. 1023**, which motion prevailed.

Senator Cooper moved to amend as follows:

AMENDMENT NO. 2

AMEND by deleting the amendatory language of Section 1(c) and by substituting instead the following:

(c) Upon approaching a stationary recovery vehicle or a highway maintenance vehicle, when such vehicle is giving a signal by use of authorized flashing lights, a person who drives an approaching vehicle shall:

(1) Proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to the stationary recovery vehicle or the highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) Proceeding with due caution, reduce the speed of the vehicle, maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1023**, as amended, was re-passed on third and final consideration by the following vote:

Ayes 33
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--33.

A motion to reconsider was tabled.

Senator Harper moved that **House Bill No. 1512** be returned to the House, which motion prevailed.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1526 -- Administrative Procedure (UAPA) -- Extends agency rules scheduled to expire pursuant to provisions of UAPA.

Senator Harper moved that the Senate refuse to recede from its action in adopting Senate Amendment No. 2 to **House Bill No. 1526**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 518 -- Child Custody and Support -- Limits retroactive orders for child support in paternity actions to two years preceding commencement of paternity action unless order of support previously entered. Amends TCA Title 36, Chapter 2, Part 3 and Title 36, Chapter 5.

Senator Jackson moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 1 to **Senate Bill No. 518**, which motion prevailed.

Senator Jackson moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **Senate Bill No. 518**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
SENATE BILL NO. 518**

The Speaker announced the appointment of a Conference Committee composed of Senators Jackson, Chairperson; Trail and Williams to confer with a like committee from the House to resolve the differences of the two Bodies on Senate Bill No. 518.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 899 -- Taxes -- Reduces from 30 to 20 days time period in which Commissioner of Revenue must remit tax revenues to comptroller. Amends TCA Title 3; Title 4; Title 5; Title 6; Title 7; Title 8; Title 9; Title 12; Title 16; Title 30; Title 36; Title 39; Title 40; Title 45; Title 47; Title 48; Title 49; Title 54; Title 55; Title 56; Title 57; Title 61; Title 62; Title 67; Title 68; Title 69; Title 70 and Title 71.

HOUSE AMENDMENT NO. 4

AMEND by deleting the amendatory Section 67-4-2306(a) in Section 75 of the bill as amended and by substituting instead the following language:

(a) There is levied a tax of four and one-half percent (4 ½%) on the purchase price (calculated exclusive of any federal excise tax paid by the producer or purchaser on such fuel) of aviation fuel, except for fuel described in Section 67-6-349, used by common carriers that is actually used in the operation of airplane or aircraft motors.

Senator Clabough moved that the Senate concur in House Amendment No. 4 to **Senate Bill No. 899**, which motion prevailed by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1028 -- Sunset Laws -- Department of financial institutions, June 30, 2005. Amends TCA Title 4, Chapter 29 and Title 4, Chapter 3.

HOUSE AMENDMENT NO. 1

AMEND by deleting Section 2 of the printed bill in its entirety and by substituting instead the following new language:

SECTION 2. Tennessee Code Annotated, Section 4-29-228(a), is amended by adding a new item thereto, as follows:

() Department of financial institutions, created by § 4-3-101;

Senator Harper moved that the Senate nonconcur in House Amendment No. 1 to **Senate Bill No. 1028**, which motion prevailed.

HOUSE AMENDMENT NO. 2

AMEND by adding the following as a new section to precede the effective date section:

SECTION ____ . Tennessee Code Annotated, Section 45-1-118(d), is amended by adding a new subdivision (3) as follows:

(3) In no event shall the department rebate to state banks or credit against the banking fee owed by state banks an amount that is more than the funds collected by the department pursuant to this section.

Senator Harper moved that the Senate nonconcur in House Amendment No. 2 to **Senate Bill No. 1028**, which motion prevailed.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1472 -- Sunset Laws -- Department of revenue, June 30, 2007. Amends TCA Title 4, Chapter 29 and Title 4, Chapter 3.

Senator Harper moved that the Senate refuse to recede from its action in nonconcurring in House Amendment No. 1 to **Senate Bill No. 1472**, which motion prevailed.

Senator Harper moved that the Speaker appoint a Conference Committee to meet with a like committee from the House to resolve the differences between the two Bodies on **Senate Bill No. 1472**, which motion prevailed.

**APPOINTMENT OF SELECT COMMITTEE
CONFERENCE COMMITTEE
ON
SENATE BILL NO. 1472**

The Speaker announced the appointment of a Conference Committee composed of Senators Harper, Chairperson; Bryson and Kilby to confer with a like committee from the House to resolve the differences of the two Bodies on Senate Bill No.1472.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 952 -- Taxes, Ad Valorem -- Requires in Shelby County that county legislative body administer county board of equalization and any municipality appointing county board members pay members it appoints. Amends TCA Section 67-1-401.

HOUSE AMENDMENT NO. 1

AMEND by adding the following new language to the end of the amendatory language of Section 1:

Each legislative body appointing members to the board shall pay its prorated share of the funding for the board. Any municipality which has an appointment to the board and which has a population of less than fifty thousand (50,000) may elect to not appoint a representative.

Senator Ford moved that the Senate concur in House Amendment No. 1 to **Senate Bill No. 952**, which motion prevailed by the following vote:

Ayes	27
Noes	1
Present, not voting	1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Ford, Fowler, Graves, Harper, Haynes, Henry, Ketron, Kilby, Kurita, Kyle, McLeary, Miller, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

Senator voting no was: Norris--1.

Senator present and not voting was: Person--1.

A motion to reconsider was tabled.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 618 -- Special License Plates -- Authorizes issuance of Choose Life new specialty earmarked license plates; allocates 50 percent of funds produced from sale thereof to New Life Resources to provide assistance to pregnant women. Amends TCA Title 55, Chapter 4.

HOUSE AMENDMENT NO. 3

AMEND by adding the following as a new subsection to be appropriately designated to the amendatory language of Section 2:

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(1) Funds produced by the sale of license plates pursuant to this section shall also comply with the provisions of this subsection.

(2)

New Life Resources
 "Choose Life" Plate Proceeds
 \$14,000 estimated gross Year 1 (1,000 plates at \$14 each)

	Year 1 Proposed Budget	Year 2 Proposed Allocations
Outreach 30% Care and Concern Brochure (Guide to Pregnancy Resource Centers in Tennessee)	\$1,500.00	
Operation of Toll-Free Helpline	\$1,500.00	
Membership in Adoption Coalitions across the state and participation in adoption conference and fairs. Total Outreach	<u>\$1,000.00</u> \$4,000.00	Outreach to be maintained at 30% of Gross Plate Proceeds
Awareness 35% Statewide advertising campaigns promoting adoption. Promotion of toll-free helpline. Radio ads Newspaper ads Billboards Yellow Pages Total Awareness	<u>\$5,000.00</u> \$5,000.00	Awareness to be maintained at 35% of Gross Plate Proceeds
Direct Assistance 35% Reimburse partner agencies for programs and services promoting adoption, parenting skills, abstinence, pregnancy, nutrition, childbirth, and childhood development. Total Direct Assistance	<u>\$5,000.00</u> \$5,000.00	Direct Assistance to be maintained at 35% of Gross Plate Proceeds
Total	<u>\$14,000.00</u>	

(3) New Life Resources is a 501(c)(3) nonprofit organization incorporated in 1995 to provide resources for women and families facing difficult or unexpected pregnancies. "Choose Life" Plate proceeds will be used to coordinate statewide awareness campaigns, a toll-free helpline and to reimburse social service providers who prepare adoptions throughout the state for services and programs targeting at-risk women and families.

(4) Disbursement of funds shall begin within forty-five (45) days of receiving first plate proceeds. As the number of plates sold increases, additional funding will be used to increase each line item above.

(5) As a 501(c)(3), New Life Resources may not use any funds for the purposes of lobbying, promoting legislation or the election or defeat of any political candidate.

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(6)(A) The nonprofit agencies identified in this subdivision shall maintain a partnership with New Life Resources for purposes of providing adoption social services at no cost to Tennessee's at-risk women and families.

(B) Upon establishment of criteria for service reimbursement, no less than 35% of plate proceeds will be directed to the following agencies to be used in providing direct assistance to clients:

A Woman's Place	1020 South Garden Street	Columbia	TN 38401
AAA Women's Services	6232 Vance Road	Chattanooga	TN 37421
Abortion Alternatives & CPC	516 Houston Ave., Suite 202	Bristol	TN 37260
Abortion Alternatives & CPC	818 West G. Street	Elizabethton	TN 37643
Abortion Alternatives Christian Services	817 W. Walnut Street #5A	Johnson City	TN 37604
Agape House	210 Oakland	Martin	TN 38237
Bethany Christian Services	400 S. Germantown Road	Chattanooga	TN 37411
Bethany Christian Services	5816 Kingston Pike	Knoxville	TN 37919
Bethany Christian Services	1200 Division Street	Nashville	TN 37203
Birth Choice Inc.	118 North Wilson	Brownsville	TN 38012
Birth Choice Women's Resource Center	391 Wallace Road	Jackson	TN 38305
Birthright -- Jackson	239-C North Parkway	Jackson	TN 38305
Care Net Pregnancy Services	305 South Main Street	Dickson	TN 37055
Caring Choices of Catholic Charities	30 White Bridge Road	Nashville	TN 37205
Choices Resource Center	140 E. Division Rd., Ste. C-2	Oak Ridge	TN 37831
Choose Life/Save-A-Life	PO Box 1022	Fayetteville	TN 37334
Crisis Pregnancy Center of Cookeville	694 S. Willow Street	Cookeville	TN 38501
Crisis Pregnancy Center of Manchester	2178 New Tullahoma Highway	Manchester	TN 37355
First Choice Pregnancy Counseling	503 Madison Street	Shelbyville	TN 37180
Full Circle Pregnancy Resources	108 Green Street	Athens	TN 37303
Heart to Heart	133 W. Pleasant	Covington	TN 38019
Crisis Pregnancy Support Center	325 North Second Street	Clarksville	TN 37041
Hope Clinic	1810 Hayes Street	Nashville	TN 37203
Hope For Life	106 Blevins Road	Rogersville	TN 37857
Hope Resource Center	2700 Painter Ave.	Knoxville	TN 37919
Life Choices	503 Tucker	Dyersburg	TN 38024
Life Choices	2235 Covington Pike, Suite 14	Memphis	TN 38128
Life Outreach Center	PO Box 721	Jefferson City	TN 37760
Birth Right Of Memphis	115 Alexander	Memphis	TN 38111
Mercy Ministries	15328 Old Hickory Blvd.	Nashville	TN 37211-2042
Miriam's Promise	37 Rutledge St.	Nashville	TN 37210
Mid-South Christian Services	920 Estate Drive, Suite 5	Memphis	TN 38119
New Hope Care Center	4526 Mouse Creek Road NW	Cleveland	TN 37312
New Life Family Center	4802 Charlotte Ave.	Nashville	TN 37209
Open Arms	336 N. Spring Street	Sparta	TN 38583
Plateau Pregnancy Services	99 Walker Hill Street	Crossville	TN 38557
Pregnancy Care Center of Warren County	100 Center Street, Ste. B	McMinnville	TN 37110
Pregnancy Help Center	137 S. College Street	Lebanon	TN 37087
Pregnancy Resource Center	718 Neff Street	Maryville	TN 37804
Pregnancy Support Center	745 S. Church Street	Murfreesboro	TN 37130
Cumberland Crisis Pregnancy Center	394 West Main Street, Ste. A-7	Hendersonville	TN 37075
Small World Ministries	401 Bonnaspring Dr.	Hermitage	TN 37076
Tennessee Baptist Children's Homes	6896 Hwy 70	Memphis	TN 38133

Tennessee Baptist Children's Home	P.O. Box 519	Franklin	TN 37065
Tomorrow's Hope Pregnancy Care Center	204 W. Blythe	Paris	TN 38242
Women's Care Center	1332 Market St.	Dayton	TN 37321
Women's Care Center	304 Eastgate Road	Sevierville	TN 37862
A Secret Place for Newborns of Tennessee, Inc.	P.O. Box 4276	Maryville	TN 37802-4276
Snap Special Needs Adoption	Goodwill Homes for Children	Memphis	TN 38109
	4590 Goodwill Road		

Senator Bryson moved that the Senate concur in House Amendment No. 3 to **Senate Bill No. 618**, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Henry, Herron, Ketron, Kilby, Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

MOTION

Senator Burks moved that the rules be suspended for the immediate consideration of **House Joint Resolution No. 597**, out of order, which motion prevailed.

RESOLUTION LYING OVER

House Joint Resolution No. 597 -- Memorials, Congress -- Urges full funding of 21st Century Learning Centers Program in fiscal year 2004 federal budget.

On motion of Senator Burks, the rules were suspended for the immediate consideration of the resolution.

On motion, **House Joint Resolution No. 597** was concurred in by the following vote:

Ayes 27
Noes 0
Present, not voting . . . 1

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Haynes, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--27.

Senator present and not voting was: Henry--1.

A motion to reconsider was tabled.

MOTION

Senator Herron moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 613**, out of order, which motion prevailed.

Senate Joint Resolution No. 613 -- Memorials, Death -- Chancellor Joe C. Morris.

Senator Herron moved to lift from the table a motion to reconsider on **Senate Joint Resolution No. 613** which motion prevailed.

Senator Herron moved that the Senate reconsider its action in adopting **Senate Joint Resolution No. 613**, which motion prevailed.

Senator Herron moved that **Senate Joint Resolution No. 613** be withdrawn, which motion prevailed.

MOTION

Senator Crowe moved that the rules be suspended for the purpose of making and considering Consent Calendar No. 4 consisting of the following resolutions: **Senate Joint Resolutions 623 and 624 and House Joint Resolutions Nos. 542 and 721**, which motion prevailed.

CONSENT CALENDAR NO. 4

House Joint Resolution No. 542 -- General Assembly, Statement of Intent or Position -- Urges Department of Environment and Conservation to approve building of trails at Meeman Shelby State Park Forest and to provide detailed explanation of reasons if approval is not given.

House Joint Resolution No. 721 -- Memorials, Academic Achievement -- Dobyns-Bennett High School, *Newsweek's* 574th Best American High School.

Senate Joint Resolution No. 623 -- Memorials, Recognition -- Jonathan P. Goodwin.

Senate Joint Resolution No. 624 -- Memorials, Academic Achievement -- Melissa Whaley, Valedictorian, Sevier County High School.

Senator Crowe moved that all Senate Joint Resolutions be adopted; and all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

MOTION

Senator Burks moved that the rules be suspended for the immediate consideration of **Senate Joint Resolution No. 622**, out of order, which motion prevailed.

RESOLUTION LYING OVER

Senate Joint Resolution No. 622 -- General Assembly, Adjournment -- Adjourns 2003 session of 103rd General Assembly on Thursday, May 29, 2003.

On motion of Senator Burks, the rules were suspended for the immediate consideration of the resolution.

On motion, **Senate Joint Resolution No. 622** was adopted by the following vote:

Ayes 31
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--31.

A motion to reconsider was tabled.

MR. SPEAKER WILDER RELINQUISHES CHAIR

Mr. Speaker Wilder relinquished the Chair to Senator Kyle as Speaker pro tempore.

NOTICE

Pursuant to Rule 44, notice was given that the following bill was returned from the House of Representatives amended.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1512. The House reconsidered the motion to nonconcur in Senate Amendment No. 1; the House reconsidered Senate Amendment No. 1; and withdrew the motion to nonconcur in Senate Amendment No. 1.

BURNEY T. DURHAM,
Chief Clerk.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1512 -- Sunset Laws -- Deletes references to terminated governmental entities. Amends TCA Title 4, Chapter 29.

Senator Harper moved to lift from the table a motion to reconsider on **House Bill No. 1512**, which motion prevailed.

Senator Harper moved that the Senate reconsider its action in passing **House Bill No. 1512**, which motion prevailed.

Senator Harper moved that the Senate reconsider its action in adopting Amendment No. 1 to **House Bill No. 1512**, which motion prevailed.

Senator Harper moved that Amendment No. 1 to **House Bill No. 1512** be withdrawn, which motion prevailed.

Senator Harper moved to amend as follows:

AMENDMENT NO. 3

AMEND by deleting the following language:

SECTION ____. Tennessee Code Annotated, Section 4-29-104, is amended by adding a new subsection thereto, as follows:

(d)(1) Notwithstanding any provision of law to the contrary, if the evaluation committee created in § 4-29-103 does not conduct a public hearing regarding a governmental entity that is due to expire on June 30 of such year, by action of the General Assembly such governmental entity may be continued for one (1) year.

(2) A governmental entity may only receive one (1) extension pursuant to this subsection.

and by substituting instead the following:

SECTION ____. Tennessee Code Annotated, Section 4-29-104, is amended by adding a new subsection thereto, as follows:

(d) Notwithstanding the provisions of Section 4-29-115 or any other provision of law to the contrary, if the evaluation committee created in § 4-29-103 does not conduct a public hearing regarding a governmental entity which has been reviewed by the office of the comptroller and such office has filed a report with the committee and such entity is due to terminate on June 30, 2003, then such entity shall be extended for two (2) years, or until the committee conducts the public hearing and the General Assembly acts to terminate, continue, reestablish or restructure the governmental entity, whichever occurs first. If such hearing and action by the General Assembly does not occur prior to June 30, 2005, then any entity continued pursuant to the provisions of this subsection is terminated and shall wind up its affairs pursuant to Section 4-29-112.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1512**, as amended, was repassed on third and final consideration by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Harper, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

NOTICE

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return Senate Bill No. 1472. The House refused to recede from its action in adopting House Amendment No. 1. The Speaker appointed a Conference Committee composed of Representatives Kernell, Cooper and Todd to confer with a like committee to resolve the differences between the two Bodies.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return Senate Bill No. 518. The House refused to recede from its action in adopting House Amendment No. 1. The Speaker appointed a Conference Committee composed of Representatives Shepard, Maddox and Black to confer with a like committee to resolve the differences between the two Bodies.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, House Bill No. 1526. The House reconsidered the motion to nonconcur in Senate Amendment No. 2 and withdrew the motion to nonconcur.

BURNEY T. DURHAM,
Chief Clerk.

HOUSE BILL ON SENATE AMENDMENT

House Bill No. 1526 -- Administrative Procedure (UAPA) -- Extends agency rules scheduled to expire pursuant to provisions of UAPA.

Senator Harper moved to lift from the table a motion to reconsider on **House Bill No. 1526**, which motion prevailed.

Senator Harper moved that the Senate reconsider its action in passing **House Bill No. 1526**, which motion prevailed.

Senator Harper moved to amend as follows:

AMENDMENT NO. 3

AMEND by adding the following new section preceding the effective date section:

SECTION _____. Rule 1200-4, Department of Human Services, transportation rules, in subsection (c) of Section 1 shall be deleted effective July 1, 2003.

On motion, the amendment was adopted.

Thereupon, **House Bill No. 1526**, as amended, was repassed on third and final consideration by the following vote:

Ayes 26
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Henry, Herron, Ketron, Kilby, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

NOTICE

Pursuant to Rule 44, notice was given that the following bills were returned from the House of Representatives amended. Under the rule, the bills lie over.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1. The House adopted the Conference Committee Report and made it the action of the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1028. The House lifted from the table the motion to reconsider Senate Bill No. 1028. The House reconsidered Senate Bill No. 1028. The House reconsidered and withdrew Amendments Nos. 1 and 2 and repassed Senate Bill No. 1028.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1344. The House lifted the tabling motion and reconsidered Senate Bill No. 1344. The House reconsidered Amendments

Nos. 2 and 3 and withdrew Amendments Nos. 2 and 3. The House adopted Amendment No. 4 and repassed Senate Bill No. 1344, as amended.

BURNEY T. DURHAM,
Chief Clerk.

SENATE BILL ON HOUSE AMENDMENT

Senate Bill No. 1344 -- Arrests -- Restates requirements for issuance of arrest warrant; provides for issuance of criminal summons, in lieu of arrest warrant, if affiant is law enforcement officer. Amends TCA Title 40, Chapter 6, Part 2.

HOUSE AMENDMENT NO. 4

AMEND by deleting the final sentence of Section 40-6-205 of the amendatory language of Section 3 as amended and substituting instead the following:

Provided, further, if, after examination of the affiant and the affidavit of complaint, the magistrate has probable cause to believe that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate threat of imminent harm to a victim as defined in § 36-3-601(8), and makes a written finding of fact that an arrest warrant rather than a criminal summons is necessary, the magistrate may issue a warrant of arrest notwithstanding the fact that the affiant is not a law enforcement officer, or, in the case of multiple-affiants, that no one of the affiants is a law enforcement officer.

AND FURTHER AMEND by deleting the final sentence of subsection (a) of Section 40-6-215 of the amendatory language of Section 5 as amended and substituting instead the following:

Provided, however, if, after examination of the affiant and the affidavit of complaint, the magistrate or judge has probable cause to believe that the issuance of a warrant of arrest rather than a criminal summons is necessary to prevent an immediate threat of imminent harm to a victim as defined in § 36-3-601(8), and makes a written finding of fact that an arrest warrant rather than a criminal summons is necessary, the magistrate or judge may issue a warrant of arrest notwithstanding the fact that the affiant is not a law enforcement officer, or, in the case of multiple-affiants, that no one of the affiants is a law enforcement officer.

Senator Person moved that the Senate concur in House Amendment No. 4 to **Senate Bill No. 1344**, which motion prevailed by the following vote:

Ayes 26
Noes 0

Senators voting aye were: Atchley, Beavers, Burchett, Burks, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Henry, Herron, Ketron, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--26.

A motion to reconsider was tabled.

**REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT ON
SENATE BILL NO. 518/HOUSE BILL NO. 1119**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 1119 (Senate Bill No. 518) has met and recommends that the following amendments be deleted:

House Amendment #1 and Senate Amendments #1, #2 and #5.

and adopt the following language:

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-2-311(a)(11), is amended by deleting that subdivision in its entirety and substituting instead the following:

36-2-311. (a)(11)(A) Determination of child support pursuant to Chapter 5 of this title. When making retroactive support awards pursuant to the child support guidelines established pursuant to this subsection, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the child's birth:

(i) the extent to which the father did not know, and could not have known, of the existence of the child, the birth of the child, his possible parentage of the child or the location of the child;

(ii) the extent to which the mother intentionally, and without good cause, failed or refused to notify the father of the existence of the child, the birth of the child, the father's possible parentage of the child or the location of the child; and

(iii) the attempts, if any, by the child's mother or caretaker to notify the father of the mother's pregnancy, or the existence of the child, the father's possible parentage or the location of the child.

(B) In cases in which the presumption of the application of the guidelines is rebutted by a preponderance of the evidence, the court shall deviate from the child support guidelines to reduce, in whole or in part, any retroactive support. The court must make a written finding that application of the guidelines would be unjust or inappropriate in order to provide for the best interests of the child or the equity between the parties.

(C) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) the father has a demonstrated history of violence or domestic violence toward the mother, the child's caretaker or the child;

(ii) the child is the product of rape or incest of the mother by the father of the child;

(iii) the mother or caretaker of the child, or the child has a reasonable apprehension of harm from the father or those acting on his behalf toward the mother, the child's caretaker or the child; or

(iv) the father or those acting on his behalf, has abused or neglected the child.

(D) Nothing in this subdivision shall limit the right of the state of Tennessee to recover from the father expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child where appropriate.

(E) Any amounts of retroactive support ordered that have been assigned to the state of Tennessee pursuant to Section 71-3-124 shall be subject to the child support distribution requirements of 42 U.S.C. 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

(F) In making any deviations from awarding retroactive support, the court shall make written findings of fact and conclusions of law to support the basis for the deviation, and shall include in the order the total amount of retroactive support that would have been paid retroactively to the birth of the child, had a deviation not been made by the court.

SECTION 2. Tennessee Code Annotated, Section 36-5-101(e)(1), is amended by adding the following as new items to that section:

(C) When making retroactive support awards pursuant to the child support guidelines established pursuant to this subsection, in cases where the parents of the minor child are separated or divorced, but where the court has not entered an order of child support, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the parents' separation or divorce:

(i) whether the remaining spouse knew or could have known of the location of the child or children who had been removed from the marital home by the abandoning spouse; or

(ii) whether the abandoning spouse, or other caretaker of the child, intentionally, and without good cause, failed or refused to notify the remaining spouse of the location of the child following removal of the child from the marital home by the abandoning spouse; and

(iii) the attempts, if any, by the abandoning spouse, or other caretaker of the child, to notify the remaining spouse of the location of

the child following removal of the child from the marital home by the abandoning spouse.

(D) In cases in which the presumption of the application of the guidelines is rebutted by a preponderance of the evidence, the court shall deviate from the child support guidelines to reduce, in whole or in part, any retroactive support. The court must make a written finding that application of the guidelines would be unjust or inappropriate in order to provide for the best interests of the child or the equity between the parties.

(E) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) the remaining spouse has a demonstrated history of violence or domestic violence toward the abandoning spouse, the child's caretaker or the child;

(ii) the child is the product of rape or incest of the mother by the father of the child;

(iii) the abandoning spouse has a reasonable apprehension of harm from the remaining spouse or those acting on the remaining spouse's behalf toward the abandoning spouse or the child; or

(iv) the remaining spouse, or those acting on the remaining spouse's behalf, has abused or neglected the child.

(F) In making any deviations from awarding child and medical support retroactively to the separation or divorce of the parties, the court shall make written findings of fact and conclusions of law to support the basis for the deviation, and shall include in the order the total amount of retroactive child and medical support that would have been paid retroactively to the separation or divorce of the parties, had a deviation not been made by the court.

(G) Nothing in this subdivision shall limit the right of the state of Tennessee to recover from the father or the remaining spouse expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child where appropriate.

(H) Any amounts of retroactive support ordered that have been assigned to the State of Tennessee pursuant to Section 71-3-124 shall be subject to the child support distribution requirements of 42 U.S.C. 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it and shall apply to any pending case in which the judgment of the trial court has not become final by such effective date.

/s/ Senator Doug Jackson
/s/ Senator Larry Trail
/s/ Senator Mike Williams

/s/ Representative David Shepard
/s/ Representative Diane Black
/s/ Representative Mark Maddox

Senator Jackson moved that the Conference Committee Report on **Senate Bill No. 518/House Bill No. 1119** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

**REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT ON
SENATE BILL NO. 1472/HOUSE BILL NO. 1489**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 1489 (Senate Bill No. 1472) has met and recommends that the following amendments be deleted:

Senate Amendment No. 1

The Committee further recommends that the following amendment be adopted:

AMEND by deleting in Section 2 of the printed bill the language "Tennessee Code Annotated, Section 4-29-228(a)" and by substituting instead the language "Tennessee Code Annotated, Section 4-29-229(a)".

/s/ Senator Harper
/s/ Senator Bryson
/s/ Senator Kilby

/s/ Representative Kernell
/s/ Representative Cooper
Representative Todd

Senator Harper moved that the Conference Committee Report on **Senate Bill No. 1472/House Bill No. 1489** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 30
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby,

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Kurita, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--30.

A motion to reconsider was tabled.

MOTION

Senator Crowe moved that the rules be suspended for the purpose of making and considering Consent Calendar No. 5 consisting of the following resolutions: **House Joint Resolutions Nos. 722, 723, 724, 725, 726 and 727**, which motion prevailed.

CONSENT CALENDAR NO. 5

House Joint Resolution No. 722 -- Memorials, Professional Achievement -- Greg Patterson, Tennessee's Distinguished Principal of the Year.

House Joint Resolution No. 723 -- Memorials, Death -- Frances Jane Smith Tetrick.

House Joint Resolution No. 724 -- Memorials, Professional Achievement -- Dorothy Jackson.

House Joint Resolution No. 725 -- Memorials, Sports -- Brentwood High School Lady Bruins Track team.

House Joint Resolution No. 726 -- Naming and Designating -- Bob Hope Day, May 29, 2003.

House Joint Resolution No. 727 -- Memorials, Personal Achievement -- William Shaffer.

Senator Crowe moved that all House Joint Resolutions be concurred in, which motion prevailed by the following vote:

Ayes 29
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cohen, Cooper, Crowe, Crutchfield, Fowler, Graves, Harper, Henry, Herron, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Miller, Norris, Person, Ramsey, Southerland, Trail, Williams and Mr. Speaker Wilder--29.

A motion to reconsider was tabled.

MOTION

Senator Crutchfield moved that a committee be appointed by the Speaker to notify the House that the Senate had completed its business and was ready to adjourn, which motion prevailed.

Senator Crutchfield moved that a committee be appointed by the Speaker to notify the Governor that the Senate had completed its business and was ready to adjourn, which motion prevailed.

APPOINTMENT OF SELECT COMMITTEES

Senator Kyle as Speaker pro tempore announced the appointments of Senators Trail, Chairperson; Kurita, Herron, Beavers and Southerland to notify the House that the Senate had completed its business and was ready to adjourn.

Senator Kyle as Speaker pro tempore announced the appointments of Senators McLeary, Chairperson; Kilby, Kyle, Bryson, Ketron and Ramsey to notify the Governor that the Senate had completed its business and was ready to adjourn.

RECESS

The Senate stood in recess pending the Reports from the two committees.

CALL TO ORDER

The Senate was called to order by Mr. Speaker Wilder.

ROLL CALL

The Speaker declared that a quorum was present.

On motion, the roll call was dispensed with.

REPORT OF SELECT COMMITTEES

Senator Trail advised the Senate that the House had been notified that the Senate had completed its business and was ready to adjourn.

Senator McLeary advised the Senate that the Governor had been notified that the Senate had completed its business and was ready to adjourn.

FURTHER ACTION ON SENATE BILL NO. 518

Senator Jackson moved to lift from the table a motion to reconsider the Conference Committee Report on **Senate Bill No. 518/ House Bill No. 1119**, which motion prevailed.

Senator Jackson moved that the Senate reconsider its action in adopting the Conference Committee Report on **Senate Bill No. 518/House Bill No. 1119**, which motion prevailed.

Senator Jackson moved that Conference Committee Report No. 1 be withdrawn, which motion prevailed.

**REPORT OF SELECT COMMITTEE
CONFERENCE COMMITTEE REPORT NO. 2 ON
SENATE BILL NO. 518/HOUSE BILL NO. 1119**

The House and Senate Conference Committee appointed pursuant to motions to resolve the differences between the two houses on House Bill No. 1119 (Senate Bill No. 518) has met and recommends that the following amendments be deleted:

House Amendment #1 and Senate Amendments #1, #2 and #5.

and adopt the following language:

AMEND by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 36-2-311(a)(11), is amended by deleting that subdivision in its entirety and substituting instead the following:

36-2-311. (a)(11)(A) Determination of child support pursuant to Chapter 5 of this title. When making retroactive support awards pursuant to the child support guidelines established pursuant to this subsection, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the child's birth:

(i) the extent to which the father did not know, and could not have known, of the existence of the child, the birth of the child, his possible parentage of the child or the location of the child;

(ii) the extent to which the mother intentionally, and without good cause, failed or refused to notify the father of the existence of the child, the birth of the child, the father's possible parentage of the child or the location of the child; and

(iii) the attempts, if any, by the child's mother or caretaker to notify the father of the mother's pregnancy, or the existence of the child, the father's possible parentage or the location of the child.

(B) In cases in which the presumption of the application of the guidelines is rebutted by clear and convincing evidence, the court shall deviate from the child support guidelines to reduce, in whole or in part, any retroactive support. The court must make a written finding that application of the guidelines would be unjust or inappropriate in order to provide for the best interests of the child or the equity between the parties.

(C) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) the father has a demonstrated history of violence or domestic violence toward the mother, the child's caretaker or the child;

(ii) the child is the product of rape or incest of the mother by the father of the child;

(iii) the mother or caretaker of the child, or the child has a reasonable apprehension of harm from the father or those acting on his behalf toward the mother, the child's caretaker or the child; or

(iv) the father or those acting on his behalf, has abused or neglected the child.

(D) Nothing in this subdivision shall limit the right of the state of Tennessee to recover from the father expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child where appropriate.

(E) Any amounts of retroactive support ordered that have been assigned to the state of Tennessee pursuant to Section 71-3-124 shall be subject to the child support distribution requirements of 42 U.S.C. 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

(F) In making any deviations from awarding retroactive support, the court shall make written findings of fact and conclusions of law to support the basis for the deviation, and shall include in the order the total amount of retroactive support that would have been paid retroactively to the birth of the child, had a deviation not been made by the court.

SECTION 2. Tennessee Code Annotated, Section 36-5-101(e)(1), is amended by adding the following as new items to that section:

(C) When making retroactive support awards pursuant to the child support guidelines established pursuant to this subsection, in cases where the parents of the minor child are separated or divorced, but where the court has not entered an order of child support, the court shall consider the following factors as a basis for deviation from the presumption in the child support guidelines that child and medical support for the benefit of the child shall be awarded retroactively to the date of the parents' separation or divorce:

(i) whether the remaining spouse knew or could have known of the location of the child or children who had been removed from the marital home by the abandoning spouse; or

(ii) whether the abandoning spouse, or other caretaker of the child, intentionally, and without good cause, failed or refused to notify the remaining spouse of the location of the child following removal of the child from the marital home by the abandoning spouse; and

(iii) the attempts, if any, by the abandoning spouse, or other caretaker of the child, to notify the remaining spouse of the location of the child following removal of the child from the marital home by the abandoning spouse.

(D) In cases in which the presumption of the application of the guidelines is rebutted by clear and convincing evidence, the court shall deviate from the child support guidelines to reduce, in whole or in part, any retroactive support. The court must make a written finding that application of the guidelines would be unjust or inappropriate in order to provide for the best interests of the child or the equity between the parties.

(E) Deviations shall not be granted in circumstances where, based upon clear and convincing evidence:

(i) the remaining spouse has a demonstrated history of violence or domestic violence toward the abandoning spouse, the child's caretaker or the child;

(ii) the child is the product of rape or incest of the mother by the father of the child;

(iii) the abandoning spouse has a reasonable apprehension of harm from the remaining spouse or those acting on the remaining spouse's behalf toward the abandoning spouse or the child; or

(iv) the remaining spouse, or those acting on the remaining spouse's behalf, has abused or neglected the child.

(F) In making any deviations from awarding child and medical support retroactively to the separation or divorce of the parties, the court shall make written findings of fact and conclusions of law to support the basis for the deviation, and shall include in the order the total amount of retroactive child and medical support that would have been paid retroactively to the separation or divorce of the parties, had a deviation not been made by the court.

(G) Nothing in this subdivision shall limit the right of the state of Tennessee to recover from the father or the remaining spouse expenditures made by the state for the benefit of the child, or the right, or obligation, of the Title IV-D child support agency to pursue retroactive support for the custodial parent or caretaker of the child where appropriate.

(H) Any amounts of retroactive support ordered that have been assigned to the State of Tennessee pursuant to Section 71-3-124 shall be subject to the child support distribution requirements of 42 U.S.C. 657. In such cases, the court order shall contain any language necessary to allow the state to recover the assigned support amounts.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming law, the public welfare requiring it and shall apply to any pending case in which the judgment of the trial court has not become final by such effective date.

/s/ Senator Doug Jackson
/s/ Senator Larry Trail
/s/ Senator Mike Williams

/s/ Representative David Shepard
/s/ Representative Diane Black
/s/ Representative Mark Maddox

Senator Jackson moved that Conference Committee Report No. 2 on **Senate Bill No. 518/House Bill No 1119** be adopted and made the action of the Senate, which motion prevailed by the following vote:

Ayes 28
Noes 0

Senators voting aye were: Atchley, Beavers, Bryson, Burchett, Burks, Clabough, Cooper, Crowe, Crutchfield, Dixon, Fowler, Graves, Harper, Henry, Herron, Jackson, Ketron, Kilby, Kurita, Kyle, McLeary, McNally, Norris, Person, Ramsey, Trail, Williams and Mr. Speaker Wilder--28.

A motion to reconsider was tabled.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed by the House to notify the Senate that the House has completed its business and is ready to adjourn until noon, January 13, 2004, in accordance with Senate Joint Resolution No. 622.

BURNEY T. DURHAM,
Chief Clerk.

MOTION

On motion of Senator Henry, his name was added as sponsor of **House Joint Resolutions Nos. 666 and 716**.

On motion of Senators Crutchfield, Henry and Graves, their names were added as sponsors of **House Joint Resolution No. 605**.

On motion of Senator Dixon, his name was added as sponsor of **Senate Resolution No. 107; and House Joint Resolutions Nos. 662 and 669**.

On motion of Senator Herron, his name was added as sponsor of **Senate Bill No. 1671; and House Joint Resolution No. 719**.

On motion of Senator McNally, his name was added as sponsor of **House Joint Resolutions Nos. 445, 664, 700, 701, 702, 704, 705, 706 and 707; and Senate Bill No. 1577**.

On motion of Senator Crutchfield, his name was added as sponsor of **House Joint Resolutions Nos. 530 and 668**.

On motion of Senator Ramsey, his name was added as sponsor of **House Joint Resolutions Nos. 445, 696, 697, 698, 709 and 721**.

On motion of Senator Fowler, his name was added as sponsor of **House Joint Resolutions Nos. 668 and 675; and Senate Bill No. 917**.

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On motion of Senator Ketron, his name was added as sponsor of **Senate Bill No. 2042; and House Joint Resolutions Nos. 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693 and 694.**

On motion of Senator Kurita, her name was added as sponsor of **House Joint Resolutions Nos. 664, 714 and 715; and Senate Bill No. 1971.**

On motion of Senator Crowe, his name was added as sponsor of **House Joint Resolutions Nos. 695 and 723; and Senate Bills Nos. 1577 and 1598.**

On motion, all Senators' names were added as sponsors of **Senate Joint Resolutions Nos. 619 and 620.**

On motion of Senator Henry, Mr. Speaker Wilder, Senators Cooper, McLeary, Crutchfield, Miller, Atchley and Cohen, their names were added as sponsors of **Senate Bill No. 899.**

On motion of Senator Cooper, his name was added as sponsor of **House Joint Resolution No. 530.**

On motion of Senator Trail, his name was added as sponsor of **House Joint Resolution No. 717.**

On motion of Senator Harper, her name was added as sponsor of **House Joint Resolutions Nos. 19 and 718.**

On motion of Senators Burchett and Atchley, their names were added as sponsors of **House Joint Resolution No. 508.**

On motion of Senator Burks, her name was added as sponsor of **House Joint Resolutions Nos. 710 and 711.**

On motion of Senator Williams, his name was added as sponsor of **House Joint Resolution No. 262.**

On motion of Senator Person, his name was added as prime sponsor of **House Joint Resolutions Nos. 75 and 445.**

On motion of Senator Beavers, her name was added as sponsor of **House Joint Resolutions Nos. 401, 417, 638 and 651.**

On motion of Senator Bryson, his name was added as sponsor of **House Joint Resolutions Nos. 724 and 725.**

On motion of Senators Graves and Herron, their names were added as sponsors of **House Joint Resolution No. 726.**

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 579, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 899, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bill No. 1874, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Bills Nos. 2047, 2048 and 2049; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolution No. 478, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 600, 601, 602, 603, 604, 605, 606, 607, 609, 614 and 615; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 616, 618, 619, 620, 621 and 622; and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENGROSSED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully examined Senate Joint Resolutions Nos. 623 and 624, and find same correctly engrossed and ready for transmission to the House.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 202, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1190 and 2001, substituted for House Bills on same subjects and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1874, substituted for House Bill on same subject and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1526, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 2129, passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 518. The House adopted Conference Committee Report No. 2 and made it the action of the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1472. The House adopted the Conference Committee Report and made it the action of the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 214 and 241, concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 580, 581, 582, 583, 584, 585, 586, 587, 588,

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589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 608, 610, 611 and 612; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 260, 310, 600, 601, 602, 603, 604, 605, 606, 607, 609, 614, 615 and 620; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 616, 618, 619 and 621; concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 622, concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolution No. 508, adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 700, 714, 715, 716, 717, 718, 719 and 720; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 721, 722, 723, 724, 725, 726 and 727; adopted, for the Senate's action.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 397, 683, 690, 818, 887, 1024, 1115, 1728, 1812, 1981 and 1995; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 98, 100, 101, 102, 103 and 106; and Senate Joint Resolutions Nos. 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 539, 540, 541, 542, 543, 544 and 545; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS

May 29, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 67, 81 and 321; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 876, 965, 1058, 1252, 1253, 1261, 1341, 1359, 1490, 1501, 1505, 1510, 1517, 1530, 1538, 1543, 1548, 1549, 1606, 1650, 1705, 1806, 1970, 2107, 2117, 2119, 2123 and 2124; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 543, 627, 628, 629, 630, 631, 632, 633, 634, 635, 637, 640, 641, 644, 645, 646, 647, 648, 649, 650, 652, 653, 654, 655, 656, 657, 658, 659 and 661; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

May 29, 2003

The Speaker announced that he had signed the following: Senate Bills Nos. 397, 683, 690, 818, 887, 1024, 1115, 1728, 1812, 1981 and 1995; Senate Resolutions Nos. 98, 100, 101, 102, 103 and 106; and Senate Joint Resolutions Nos. 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 539, 540, 541, 542, 543, 544 and 545.

SIGNED

May 29, 2003

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 67, 81 and 321.

SIGNED

May 29, 2003

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 543, 627, 628, 629, 630, 631, 632, 633, 634, 635, 637, 640, 641, 644, 645, 646, 647, 648, 649, 650, 652, 653, 654, 655, 656, 657, 658, 659 and 661.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 61, 128, 223, 263, 397, 437, 481, 622, 626, 683, 690, 751, 792, 818, 887, 907, 924, 1024, 1067, 1085, 1090, 1115, 1127, 1332, 1372, 1444, 1560, 1647, 1728, 1742, 1812, 1923, 1981 and 1995; and Senate Joint Resolutions Nos. 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 539, 540, 541, 542, 543, 544 and 545; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 29, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 67, 81 and 321; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGRASSING CLERK

May 29, 2003

MR. SPEAKER: Your Chief Engrassing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 479 and 480; for his action.

PATRICK W. MERKEL,
Chief Engrassing Clerk.

REPORT OF CHIEF ENGRASSING CLERK

May 29, 2003

MR. SPEAKER: Your Chief Engrassing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 67, 81 and 321; for his action.

PATRICK W. MERKEL,
Chief Engrassing Clerk.

MESSAGE FROM THE GOVERNOR

May 29, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bill No. 1518; and Senate Joint Resolutions Nos. 121, 238, 259, 433, 434, 435, 436, 438, 439, 440, 441, 442, 443, 444, 445, 446, 449, 450, 451, 453, 454, 481 and 538; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MOTION TO APPROVE THE JOURNAL

Senator Crutchfield moved that the Senate Journal of the proceedings from the First Organizational Day through the Fifth Organizational Day, and the First Legislative Day through the Forty-seventh Legislative Day of the First Regular Session of the One Hundred Third General Assembly be approved, which motion prevailed.

ADJOURNMENT

Thereupon, in accordance with **Senate Joint Resolution No. 622**, Mr. Speaker Wilder declared the Senate of the First Regular Session of the One Hundred Third General Assembly adjourned.

John S. Wilder
Speaker of the Senate

Attest: Russell A. Humphrey
Chief Clerk of the Senate

All bills and joint resolutions presented to the Governor subsequent to May 18, 2003, for his actions, being within ten days of the adjournment of the First Regular Session of the One Hundred Third General Assembly, prevents the return of said bills to the Senate within the ten day period, and accordingly, the final action taken by the Governor will be filed by him in the Secretary of State's Office, all in compliance with Article III, Section 18, relating to the Governor's Veto Power of the Constitution of Tennessee.

**BILLS AND RESOLUTIONS ENROLLED, SIGNED AND
TRANSMITTED TO GOVERNOR, SUBSEQUENT TO ADJOURNMENT**

ENROLLED BILLS

May 30, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Resolutions Nos. 97, 104, 105, 107, 108 and 109; and find same correctly enrolled and ready for the signature of the Speaker.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE HOUSE

May 30, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 19, 59, 75, 175, 262, 274, 401, 417, 423, 445, 508, 542, 597, 651, 662, 663, 664, 665, 666, 667, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 688, 689, 690, 691, 692 and 693; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

May 30, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Joint Resolutions Nos. 58, 189, 454, 530, 572, 668, 669, 687, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726 and 727; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

May 30, 2003

The Speaker announced that he had signed the following: Senate Resolutions Nos. 97, 104, 105, 107, 108 and 109; and House Joint Resolutions Nos. 19, 59, 75, 175, 262, 274, 401, 417, 423, 445, 508, 542, 597, 651, 662, 663, 664, 665, 666, 667, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 688, 689, 690, 691, 692 and 693.

SIGNED

May 30, 2003

The Speaker announced that he had signed the following: House Joint Resolutions Nos. 58, 189, 454, 530, 572, 668, 669, 687, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726 and 727.

REPORT OF CHIEF ENROSSING CLERK

May 30, 2003

MR. SPEAKER: Your Chief Enrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 61, 128, 223, 263, 397, 437, 481, 622, 626, 683, 690, 751, 792, 818, 887, 907, 924, 1024, 1067, 1085, 1090, 1115, 1127, 1332, 1372, 1444, 1560, 1647, 1728, 1742, 1812, 1923, 1981 and 1995; for his action.

PATRICK W. MERKEL,
Chief Enrossing Clerk.

ENROLLED BILLS

June 2, 2003

MR. SPEAKER: Your Chief Enrossing Clerk begs leave to report that we have carefully compared Senate Bills Nos. 1, 38, 172, 202, 497, 518, 618, 899, 951, 952, 1028, 1190, 1344, 1472, 1648, 1664, 1665, 1874 and 2001; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Enrossing Clerk.

ENROLLED BILLS

June 2, 2003

MR. SPEAKER: Your Chief Enrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 214, 241, 579 and 597; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Enrossing Clerk.

SIGNED

June 2, 2003

The Speaker announced that he had signed the following: Senate Bills Nos. 1, 38, 172, 202, 497, 518, 618, 899, 951, 952, 1028, 1190, 1344, 1472, 1648, 1664, 1665, 1874 and 2001.

SIGNED

June 2, 2003

The Speaker announced that he had signed the following: House Bills Nos. 876, 965, 1058, 1252, 1253, 1261, 1341, 1359, 1490, 1501, 1505, 1510, 1517, 1530, 1538, 1543, 1548, 1549, 1606, 1650, 1705, 1806, 1970, 2107, 2117, 2119, 2123 and 2124.

SIGNED

June 2, 2003

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 214, 241, 579 and 597.

THURSDAY, MAY 29, 2003 -- 47TH LEGISLATIVE DAY

MESSAGE FROM THE HOUSE

June 2, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 214, 241, 579 and 597; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENROSSING CLERK

June 2, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 214, 241, 579 and 597; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

REPORT OF CHIEF ENROSSING CLERK

June 2, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 539, 540, 541, 542, 543, 544 and 545; for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

June 2, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bills Nos. 64, 116, 301, 311, 389, 396, 430, 434, 664, 762, 791, 863, 878, 918, 1207, 1279, 1288, 1342, 1343, 1389, 1399, 1676, 1744, 1817, 1854 and 1931; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE HOUSE

June 3, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolution No. 104, concurred in by the House.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

June 3, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 1742, substituted for House Bill on same subject, amended, and passed by the House.

BURNEY T. DURHAM,
Chief Clerk.

ENROLLED BILLS

June 3, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolutions Nos. 260, 310, 478, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 614, 615, 616, 618, 619, 620, 621 and 622; and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

ENROLLED BILLS

June 3, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Joint Resolution No. 104, and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

SIGNED

June 3, 2003

The Speaker announced that he had signed the following: Senate Joint Resolutions Nos. 260, 310, 478, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 614, 615, 616, 618, 619, 620, 621 and 622.

SIGNED

June 3, 2003

The Speaker announced that he had signed the following: Senate Joint Resolution No. 104.

MESSAGE FROM THE HOUSE

June 3, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 1, 38, 172, 202, 518, 618, 899, 951, 952, 1028, 1190, 1344, 1472, 1648, 1664, 1665 and 2001; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE HOUSE

June 3, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Joint Resolutions Nos. 104, 260, 310, 478, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 614, 615, 616, 618, 619, 620, 621 and 622; signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENROSSING CLERK

June 3, 2003

MR. SPEAKER: Your Chief Enrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Joint Resolutions Nos. 104, 260, 310, 478, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 614, 615, 616, 618, 619, 620, 621 and 622; for his action.

PATRICK W. MERKEL,
Chief Enrossing Clerk.

MESSAGE FROM THE HOUSE

June 4, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bills Nos. 158, 432, 466, 567, 809, 812, 843, 874, 891, 896, 974, 1023, 1030, 1229, 1256, 1257, 1259, 1286, 1343, 1386, 1411, 1424, 1503, 1504, 1508, 1512, 1515, 1516, 1519, 1520, 1526, 1528, 1531, 1544, 1550, 1665, 1793, 1803, 1895, 1946, 1958, 1985, 1986, 2019, 2073, 2074, 2113, 2120, 2121, 2122, 2125, 2126, 2127, 2128 and 2129; for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

MESSAGE FROM THE GOVERNOR

June 4, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bills Nos. 2, 53, 63, 166, 427, 460, 479, 533, 718, 734, 795, 882, 949, 1189, 1200, 1262, 1383, 1474, 1475, 1562, 1611, 1627, 1650, 1658, 1687, 1721, 1813, 1815, 1819, 1935, 1954, 1955, 1959, 1974 and 1979; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

THURSDAY, MAY 29, 2003 -- 47TH LEGISLATIVE DAY

REPORT OF CHIEF ENGRASSING CLERK

June 5, 2003

MR. SPEAKER: Your Chief Engrassing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bills Nos. 1, 38, 172, 202, 518, 618, 899, 951, 952, 1028, 1190, 1344, 1472, 1648, 1664, 1665 and 2001; for his action.

PATRICK W. MERKEL,
Chief Engrassing Clerk.

MESSAGE FROM THE GOVERNOR

June 5, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 479, 480 and 597; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

June 5, 2003

The Honorable Phil Bredesen
Governor
State of Tennessee
State Capitol
Nashville, TN 37243

Dear Governor Bredesen:

Senate Bill No. 1742 was transmitted to you in error. The House of Representatives erroneously transmitted this bill with notation that it had not been amended by the House. Therefore the Senate never concurred in the House amendments.

This measure has not passed both houses of the General Assembly. Please accept this request for return of said bill.

If you have any questions, please let me know.

With kindest regards, I am,

Yours truly,

/s/ Russell A. Humphrey
Chief Clerk of the Senate

MESSAGE FROM THE GOVERNOR

June 6, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 67, 81 and 321; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

June 6, 2003

Russell A. Humphrey
Chief Clerk of the Senate
2nd Floor State Capitol
Tennessee General Assembly
Nashville, TN 37243-0081

Dear Mr. Humphrey:

Please find attached Senate Bill No. 1742, which you requested be returned to the Senate in your letter dated June 5, 2003.

Yours very truly

/s/ Robert E. Cooper, Jr.
Counsel to the Governor

MESSAGE FROM THE HOUSE

June 10, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bills Nos. 497 and 1874, signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK

June 10, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bill No. 497, for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

June 11, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bills Nos. 1, 61, 128, 223, 263, 397, 437, 481, 622, 626, 683, 690, 751, 792, 818, 887, 907, 924, 1024, 1067, 1085, 1090, 1115, 1127, 1332, 1372, 1444, 1560, 1647, 1728, 1812, 1923, 1981 and 1995; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

SIGNED

June 12, 2003

The Speaker announced that he had signed the following: House Bills Nos. 158, 432, 466, 567, 809, 812, 843, 874, 891, 896, 974, 1023, 1030, 1229, 1256, 1257, 1259, 1286, 1343, 1386,

THURSDAY, MAY 29, 2003 -- 47TH LEGISLATIVE DAY

1411, 1424, 1503, 1504, 1508, 1512, 1515, 1516, 1519, 1520, 1526, 1528, 1531, 1544, 1550, 1665, 1793, 1803, 1895, 1946, 1958, 1985, 1986, 2019, 2073, 2074, 2113, 2120, 2121, 2122, 2125, 2126, 2127, 2128 and 2129.

REPORT OF CHIEF ENROSSING CLERK

June 13, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bill No. 1874, for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

June 13, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 104, 214, 241, 260, 310, 478, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548 and 549; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

June 13, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Joint Resolutions Nos. 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 614, 615, 616, 618, 619, 620, 621 and 622; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

June 16, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bill No. 899, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE HOUSE

June 17, 2003

MR. SPEAKER: I am directed to transmit to the Senate, House Bill No. 1099, for the signature of the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

SIGNED

June 17, 2003

The Speaker announced that he had signed the following: House Bill No. 1099.

MESSAGE FROM THE GOVERNOR

June 17, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bills Nos. 38, 172, 202, 518, 951, 952, 1028, 1190, 1344, 1472, 1648, 1664, 1665 and 2001; with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

June 18, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bill No. 618, without his signature.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

June 17, 2003

The Honorable Lt. Governor John S. Wilder
Speaker of the Senate
1 Legislative Plaza
Nashville, TN 37243

Dear Governor Wilder:

As you know, I have allowed Senate Bill No. 618 (the "Choose Life" license plate bill) to become law without signature.

While I didn't want to target this specific message with a veto, I am very concerned that we are venturing onto a slippery slope by starting to place political messages onto license plates, an official instrument of the state. We are getting into constitutionally suspect territory and need to take a fresh look at this whole issue. I'm concerned that the whole specialty license plate issue is getting out of control.

I would respectfully request that the General Assembly establish a joint committee to review the entire practice of allowing Tennessee license plates to be used in this manner. I am concerned that with the best of intentions we have backed into a questionable practice over the years. It is time for the legislature to consider this practice fully and decide whether and under what ground rules Tennessee should allow its license plates to be used for the benefit of private organizations or to express political views.

THURSDAY, MAY 29, 2003 -- 47TH LEGISLATIVE DAY

I look forward to working with you in the months ahead on this and other issues. Thank you again for your excellent work in the session just ended.

Sincerely,

/s/ Phil Bredesen

June 18, 2003

The Honorable Riley Darnell
Secretary of State
Nashville, Tennessee 37243

Dear Mr. Secretary of State:

The Governor received Senate Bill No. 618 on June 5, 2003, and returned the bill on June 18, 2003, without his signature. The Governor had the bill in his possession longer than ten (10) days, as provided for in Article III, Section 18 of the Constitution of the State of Tennessee. Therefore, Senate Bill No. 618 becomes law without the Governor's signature.

Sincerely,

/s/ Russell A. Humphrey
Chief Clerk of the Senate

MESSAGE FROM THE GOVERNOR

June 19, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bill No. 497, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

MESSAGE FROM THE GOVERNOR

June 25, 2003

MR. SECRETARY OF STATE: I am directed by the Governor to return herewith: Senate Bill No. 1874, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.

ENROLLED BILLS

July 16, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have carefully compared Senate Bill No. 622, and find same correctly enrolled and ready for the signatures of the Speakers.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

SIGNED

July 24, 2003

The Speaker announced that he had signed the following: Senate Bill No. 622.

MESSAGE FROM THE HOUSE

August 7, 2003

MR. SPEAKER: I am directed to return to the Senate, Senate Bill No. 622, signed by the Speaker.

BURNEY T. DURHAM,
Chief Clerk.

REPORT OF CHIEF ENGROSSING CLERK

August 7, 2003

MR. SPEAKER: Your Chief Engrossing Clerk begs leave to report that we have transmitted to the Governor the following: Senate Bill No. 622, for his action.

PATRICK W. MERKEL,
Chief Engrossing Clerk.

MESSAGE FROM THE GOVERNOR

August 8, 2003

MR. SPEAKER: I am directed by the Governor to return herewith: Senate Bill No. 622, with his approval.

ROBERT E. COOPER, JR.,
Counsel to the Governor.